

**THE SEMI-ANNUAL REPORT OF
THE CONSUMER FINANCIAL
PROTECTION BUREAU**

HEARING
BEFORE THE
COMMITTEE ON FINANCIAL SERVICES
U.S. HOUSE OF REPRESENTATIVES
ONE HUNDRED THIRTEENTH CONGRESS
SECOND SESSION

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Wednesday, June 18, 2014

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
Washington, D.C.

The committee met, pursuant to notice, at 10:08 a.m., in room 2128, Rayburn House Office Building, Hon. Jeb Hensarling [chairman of the committee] presiding.

Members present: Representatives Hensarling, Bachus, Royce, Capito, Garrett, Neugebauer, McHenry, Campbell, Bachmann, Pearce, Posey, Fitzpatrick, Luetkemeyer, Huizenga, Duffy, Hurt, Stivers, Fincher, Hultgren, Ross, Pittenger, Barr, Cotton, Rothfus, Messer; Waters, Maloney, Velazquez, Sherman, Meeks, Capuano, Clay, McCarthy of New York, Lynch, Scott, Green, Cleaver, Ellison, Himes, Peters, Carney, Foster, Kildee, Murphy, Sinema, and Heck.

Chairman HENSARLING. The committee will come to order.

Without objection, the Chair is authorized to declare a recess of the committee at any time.

The Chair now yields himself 6½ minutes for an opening statement.

This morning, we welcome back Director Cordray to deliver testimony on the fifth semi-annual report of the Consumer Financial Protection Bureau (CFPB).

Protecting consumers within interstate commerce is a vitally important mission of the Federal Government, and, properly designed, the CFPB is capable of great good on behalf of consumers.

It is also capable of great harm. In just 3 years, the CFPB has grown into an unaccountable Federal leviathan of nearly 1,400 employees with an over half-a-billion-dollar budget and the unrestrained power to dictate which Americans can receive credit and which Americans cannot. Knowledgeable Americans are rightfully alarmed as the threat and the harm begins to mount.

Since Director Cordray last appeared before our committee in January, we have learned much. First, we have learned that in the first quarter of this year, we actually had negative economic growth of 1 percent. And when you speak to practically any small-business person in our country, any community banker, they will tell you that the sheer weight, volume, and complexity of the regulatory red-tape burden is one of the primary reasons that they cannot expand and hire more people.

We hear, for example, from Barry in Chicago. He says he owns a small insurance company, but, “I spend most of my days on the CFPB Web site reading through all the regulations and trying to implement them into our system. My loan officers can’t believe all the new complicated forms, and our borrowers are all confused. The CFPB is adding such cost to the business that only Wells Fargo, Chase, and Bank of America will be left for consumers to obtain loans.”

Regrettably, this is not a unique piece of correspondence. It is one way that the CFPB is regrettably harming consumers and helping keep people underemployed and unemployed.

We have also learned since Director Cordray’s last appearance that the CFPB is incurring even more cost on its building renovation. What was then going to cost an estimated \$145 million is now costing at least \$184 million, according to information provided by the Bureau itself. That is \$30 million more than the building is even worth—a building, we must remember, that the CFPB does not even own. This is what happens, I believe, when an agency is essentially unaccountable to the people.

Even more troubling, we have learned since Director Cordray was last before the committee that the joint database project of the CFPB and the FHFA will undeniably collect personally identifiable information on millions of Americans in the National Mortgage Database. I am not speaking merely of names, addresses, and phone numbers, though the database will certainly include those, but, shockingly, also people’s Social Security numbers, their race, their religion, personal financial information, and even the GPS coordinates to their homes. If this is not considered personally identifiable information by the CFPB, then I don’t know what is.

A breach of this database could cause untold harm to consumers by the very agency that purports to protect them. Without a doubt, this National Mortgage Database is an unwarranted and shocking intrusion into the privacy of American citizens. It is a database I would fully expect to see in either Russia or China, but I am appalled to see it in the United States of America. And I predict, as more Americans become aware of this, they, too, will be appalled and will demand accountability from this Administration.

Next, we clearly have the most appalling development that has occurred since Director Cordray’s last appearance here: independently corroborated reports of widespread discrimination and abuse of employees at the CFPB—not merely virtual discrimination, not merely theoretical discrimination or statistical discrimination, but appalling acts of actual discrimination.

Since these allegations first came to light, this committee has served as a virtual trauma unit for employees who have come forward to report discrimination, retaliation, and other apparent violations of law at the CFPB.

And although our committee has publicly invited aggrieved employees from every other Federal agency within our jurisdiction to come forward if they have experienced discrimination or retaliation, the only ones who have come forward so far all work or have worked for the CFPB.

Most wish to remain anonymous because they fear retaliation, but, as you prepare to give your testimony, Director Cordray, I

have no doubt that you are aware we will publicly hear from other whistleblowers this afternoon, including one Mr. Kevin Williams, whose testimony has already been delivered to the committee. He will testify later this afternoon about the CFPB, “The frequency and duration of these occurrences,” in speaking of discrimination, “created a hostile work environment for all Blacks at the Bureau, whether they were unwitting manipulated Black managers or mistreated hardworking black employees. It is just that we, the latter, suffered the objectively adverse consequences.”

Again, this whistleblower testimony is not unique.

I have no doubt that all agree, including the Director, that invidious discrimination and retaliation are not only illegal; they are also morally repugnant. And until I heard it with my own ears, I never would have believed that a Federal office in the 21st Century would commonly be referred to as “the plantation.”

I, for one, am uninterested in hearing how the system is to blame, Director Cordray. I am uninterested in hearing about plans to conduct listening sessions and hire consultants when the real problem is the people you have hired to help run this Bureau.

These disturbing developments once again demonstrate, I believe conclusively, why there must be substantial structural reform at the CFPB. Consumers deserve accountability not only from Wall Street, but they deserve it from Washington, too. Yet, by design, the CFPB remains arguably the least accountable Washington bureaucracy in the history of America, and it shows. This must change.

The Chair now recognizes the ranking member for 5 minutes for an opening statement.

Ms. WATERS. Thank you, Mr. Chairman.

And welcome back, Director Cordray.

Today, we once again gather to review the Consumer Financial Protection Bureau’s semi-annual report.

Mr. Director, since you were here last January, Republicans have been hard at work drafting and passing burdensome legislation that would gut your agency and its ability to stand up for our Nation’s consumers. In the past 6 months, Republicans have advanced a number of these harmful measures through this committee and this House that would undermine the CFPB’s ability to protect consumers from deceptive marketing, unlawful debt collection, lending discrimination, illegal fees, and other prohibited activity.

I am disappointed that a package to destabilize CFPB’s leadership and its autonomy and tie its funding to the whims of the congressional appropriations process made its way through the House of Representatives. If enacted into law, we will be one step closer to the Republicans’ goal of ending the CFPB’s ability to protect all consumers, including students, seniors, families, and servicemembers.

Just last week, this committee considered and passed a collection of measures designed to bog the CFPB down with additional paperwork, increasing its bureaucratic responsibilities, and eliminating important tools at their disposal.

It saddens me that my colleagues on the other side of the aisle have aligned themselves with Wall Street predatory lenders and other bad actors in our financial system at the expense of pro-

protecting customers and consumers. I know in my district, the Bureau has been helpful with all manner of constituent requests, and I am confident that the constituents we all serve benefit from the Bureau's expertise despite opponents' unwillingness to embrace its mission.

Nonetheless, Director Cordray, we welcome you on this, the CFPB's 50th appearance before Congress since its inception in 2011. That is nearly 1 appearance before Congress every 3 weeks.

Director Cordray, I would like to thank you for making yourself and other senior CFPB officials available to come before this body and discuss the important issue of diversity and discrimination. While I remain disappointed that my colleagues on the other side of the aisle have not granted us the opportunity to speak with you on this issue sooner, I hope to hear more from you today about your progress in addressing these issues.

Mr. Director, this is the 5th time you have released a semi-annual report, as called for by law, and each time your agency has shown remarkable progress in your investigations and advocacy for American consumers. This most recent report shows a continuation of your unprecedented record of success protecting consumers and servicemembers.

To date, the Bureau's enforcement actions have refunded \$3.8 billion directly to 12.6 million consumers. And the American public's trust in the CFPB to fight for them has only increased, as the Bureau has received more than 354,000 consumer complaints, resolved tens of thousands of individual problems, and provides answers to more than 1,000 frequently asked questions posed through its online portal known as, "Ask CFPB."

The semi-annual report also indicates the Bureau has continued its unprecedented success in enforcement actions against a wide range of institutions for unscrupulous actions. In the past year, the CFPB was a party to 31 enforcement actions for violations of law, including mortgage servicing, kickback schemes, fair lending, unfair billing practices tactics, and deceptive marketing.

The CFPB has issued a number of important regulations that protect consumers from predatory financial practices while having significant success on behalf of our Nation's active duty military. In fact, CFPB's actions and collaboration has led to over \$100 million in refunds to our servicemembers.

So I welcome you, Director Cordray. I commend you for CFPB's impressive track record in these very few short years.

And I would like to insert into the record the information that was alluded to by the chairman on mortgage data collection. It seems that the National Mortgage Database was launched by Mr. DeMarco, and that the mortgage data collection repository is included in the chairman's PATH Act bill. There is only one sentence devoted to protecting personally identifiable information in that Act, so I thought the chairman should be reminded of that.

And I yield back the balance of my time.

Chairman HENSARLING. The gentlelady yields back.

The Chair now recognizes the gentlelady from West Virginia, Mrs. Capito, the chairwoman of our Financial Institutions and Consumer Credit Subcommittee, for 2½ minutes.

Mrs. CAPITO. Thank you, Mr. Chairman.

And I would like to thank Director Cordray for joining us this morning.

In May of this year, the CFPB released their semi-annual report documenting the Bureau's activities from October of last year through March of this year. I am pleased that Mr. Cordray is able to join us this morning and talk about that report.

I do have some questions about the management of the Bureau and the effect its rules are having on access to credit for consumers. Earlier this spring, we learned that there were some serious discrimination issues within the Bureau. During an Oversight and Investigations Subcommittee hearing in April, a Bureau employee courageously testified about her experiences with discrimination at the Bureau and provided detailed accounts of discrimination and inappropriate conduct by managers at the Bureau. Every Member in the hearing was rather surprised as the witness shared her experience and those of the other Bureau employees.

I know that Director Cordray has pledged to set the record straight and has promised to make systemic changes, so thank you for that. However, changing the system is not enough. We need to have some accountability. Failing to do so is a disservice to all Bureau employees.

I am also interested, as you well know, in the Bureau's efforts to monitor the impact of the mortgage rules that went into place in January of this year and the effect they are having on the national mortgage market.

We have heard repeated concerns from community bankers about their ability to navigate the complexities of the rule. In some cases, these institutions have decided that, rather than attempting to quantify the litigation risks and compliance costs associated with these rules, the institutions are simply exiting the mortgage business.

These rules have been on the books for 6 months, and we need to have an honest assessment of their impact on consumers and the availability of credit. Consumers are not better off if they are no longer able to work with their local bank or credit union to access that mortgage.

It is our job, as members of this committee, to hold the CFPB accountable. The agency is charged with protecting consumers; however, it is incumbent upon us as policymakers to ensure that these consumers are not being harmed in any way by limiting access to credit as a result of the Bureau's rules. We must also ensure that those who choose to pursue the calling of public service are in an environment that is free of discrimination.

I would like to again thank Director Cordray for appearing. I yield back my time, and I thank the chairman for holding this important hearing.

Chairman HENSARLING. The Chair now recognizes the gentleman from Connecticut, Mr. Himes, for 2 minutes.

Mr. HIMES. Thank you, Mr. Chairman.

And, Mr. Director, thank you for being with us today. I am glad to see you. I am glad that the Consumer Financial Protection Bureau, despite the challenges it has had as it gets started, is here and protecting American consumers.

You have been subjected to years, now, of complaints from the Republican Majority around governance, around your structure, around accountability. I will swallow hard and accept that they are making an argument in good faith as they raise the standard of antidiscrimination because they are right. Unfortunately, the information that came out of CFPB is discouraging and concerning. And I trust that you will do everything you can to make that right.

I don't want it lost, though, as these criticisms are leveled at you, what it is that you really do. This is not about Wall Street, this is not about derivatives, this is not about insurance companies. This is about check cashers, pawn shops, and shadowy lending operations that cluster around our military bases. This is about products that are designed to strip senior citizens of the equity that they have in their homes. It happens. It happens big-time.

Is there a need for you to be here? Since you got started, there have been 354,000 complaints to the CFPB about these products, which in some cases are predatory. And you have returned, as the ranking member said, almost \$4 billion to 12½ million American consumers.

That is what this is about. It is not Wall Street. It is about protecting individual Americans and returning ill-gotten gains to them. I don't understand why there is this consistent drumbeat of attack on the CFPB when that is your mission, however challenging it may have been to get started.

So, Director, I will trust that on these issues of discrimination, you will be quick and firm in dealing with them. I will trust that you will continue to treat the small and community banks that are so important in our districts carefully, but I would urge you to continue to do the good work that you have been doing.

I yield back the balance of my time.

Chairman HENSARLING. The Chair now recognizes the gentleman from Wisconsin, the vice chairman of our Financial Institutions and Consumer Credit Subcommittee, Mr. Duffy, for 1 minute.

Mr. DUFFY. Thank you, Mr. Chairman.

Without reservation, this committee and Members of Congress have continually expressed their concern to the CFPB about its data collection efforts. And, continually, Mr. Director, you have come to this committee and verbally and to our written questions have told us that is not what you are doing, you are not collecting personally identifiable information.

Well, now we have found out that through your efforts with the FHFA, you are collecting names, addresses, phone numbers, race, ethnicity, religion, education, wealth, assets. You are collecting it all. My concern is about the truthfulness and veracity of the Bureau and your testimony before this committee. What you have told us, we now find out, isn't true.

The NSA came to us and told us they were collecting our phone records because they want to protect us from terrorists. You collect everything else under the sun. And my question to you is: For what purpose? Who are you protecting us from?

I would say, Mr. Chairman, that we need protection for the consumers from the CFPB and their data collection.

I yield back.

Chairman HENSARLING. The Chair now recognizes the gentleman from Texas, Mr. Green, the ranking member of our Oversight and Investigations Subcommittee, for a minute and a half.

Mr. GREEN. Thank you, Mr. Chairman.

Mr. Chairman, I associate myself with the comments of the ranking member and would remind persons that this is but a continuation of the opposition to the CFPB, and, more appropriately, I think it is important to say the "Consumer Financial Protection Bureau." Because, as has been stated by my colleague, Mr. Himes, this is an agency dedicated—dedicated—to protecting consumers.

And the great work that has been done at the Consumer Financial Protection Bureau has been done not because of but in spite of opposition. In spite of a refusal to allow the Director to testify, the Bureau has succeeded. In spite of a refusal to confirm the Director initially, the Bureau has succeeded. In spite of attempts to subject the CFPB to the appropriations process, it still succeeds. In spite of an attempt to create a commission so as to weaken the strength of the entity, it still succeeds.

The Consumer Financial Protection Bureau has done an outstanding job, as evidenced by a document that I would like to submit, entitled, "CFPB—which will be the Consumer Financial Protection Bureau—By The Numbers." We will find that these numbers are overwhelmingly positive as they relate to the Consumer Financial Protection Bureau.

And I would like, Mr. Chairman, at this time to ask that this be submitted for the record.

Chairman HENSARLING. Without objection, it is so ordered.

Mr. GREEN. Thank you.

I would close with this, Mr. Chairman. The Consumer Financial Protection Bureau is here. If we did not have it, we would be trying to create it.

And I am grateful that you are here to testify about the good things that the Consumer Financial Protection Bureau has done.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Georgia, Mr. Scott, for 1/1/2/ minutes.

Mr. SCOTT. Thank you very much, Mr. Chairman.

Director Cordray, again, welcome to the committee. And I want to start off by commending you and the CFPB for your outstanding work, particularly in two areas.

I think your most demanding area has been in the debt collection area, if I am not mistaken. We have a very, very serious growing crisis—which I hope we will be able to get into as we get to our questions to find out more about what the CFPB is doing—and that is student loans. In in my State of Georgia, according to the Atlanta Business Chronicle, our students there—the student loan amount for over 1.2 million students is nearly \$40 billion—\$39 billion, to be exact.

The President, last week, issued a plan to address that. I would like to know what you think about that plan. I think it would be very interesting for the committee to know, and for the Nation to know, is this enough, do we need to do more, and if so, what that might be.

The other area is with our veterans. It is a pathetic shame, the way our veterans are being treated. And, certainly, the work that you are doing in there, we certainly want to hear about that.

Thank you, Mr. Chairman.

Chairman HENSARLING. The time of the gentleman has expired.

Again, today we welcome back to the committee Director Richard Cordray of the Consumer Financial Protection Bureau. I believe, since he has appeared here before, he needs no further introduction.

Without objection, the Director's written statement will be made a part of the record.

Director Cordray, you are now recognized for a summary of your testimony. Thank you.

**STATEMENT OF THE HONORABLE RICHARD CORDRAY,
DIRECTOR, CONSUMER FINANCIAL PROTECTION BUREAU**

Mr. CORDRAY. Thank you, Mr. Chairman, Ranking Member Waters, and members of the committee. Thank you all for inviting me to testify today about the semi-annual report of the Consumer Financial Protection Bureau.

As the ranking member mentioned, my testimony today marks the 50th time that a senior Bureau official, usually me, has testified before Congress. You would think I would have it down by now, but there are always challenges.

The Consumer Financial Protection Bureau is the Nation's first Federal agency, as you know, with the sole focus of protecting consumers in the financial marketplace. Financial products like mortgages, credit cards, and student loans involve some of the most important financial transactions of people's lives. Since we opened our doors, we have been focused on making consumer financial markets work better for the American people, the honest businesses that serve them, and the economy as a whole.

My testimony today focuses on the Bureau's fifth semi-annual report to Congress, which describes our efforts to achieve its important mission. Through fair rules, consistent oversight, appropriate enforcement of the law, and broad-based consumer engagement, the Bureau is helping to restore American families' trust in consumer financial markets, to protect American consumers from improper conduct, and to ensure access to fair, competitive, and transparent markets.

Through our enforcement actions to date, counting yesterday's enforcement action, we have aided in efforts to refund more than \$4.3 billion to consumers who fell victim to various violations of consumer financial protection laws. In the fall of 2013, for the first time we took action, in conjunction with multiple State Attorneys General, 49 out of 50, against an online—actually, that is a different matter—a dozen or so Attorneys General against an online loan servicer for illegally collecting money that consumers did not owe. We took action against a payday lender for overcharging servicemembers in violation of the Military Lending Act, and robo-signing court documents. We took action against an auto lender for discriminatory loan pricing. And we partnered with 49 States in bringing an action against the Nation's largest nonbank mortgage loan servicer for misconduct at every stage in the mortgage serv-

icing process. Yesterday, we announced a resolution with the Justice Department and 49 of 50 States against another large mortgage loan servicer that will put \$500 million in relief back to consumers across this country in all of your districts.

In January, mortgage rules that the Bureau issued to implement provisions of the Dodd-Frank Act took effect, establishing new protections for homebuyers and homeowners, mentioned by a number of you in opening statements. During the reporting period, we also issued another major mortgage rule mandated by Congress: a final rule to consolidate and improve Federal mortgage disclosures under the Truth in Lending Act and the Real Estate Settlement Procedures Act, which we have called, “Know Before You Owe.” We also issued an Advance Notice of Proposed Rulemaking on debt collection, asking the public in-depth questions about a range of issues relating to the debt collection market, which is the Bureau’s most frequent source of consumer complaints.

To promote informed financial decision-making, we have continued providing consumers with online resources, including the AskCFPB section of our Web site, where we have the answers for more than 1,000 frequently asked questions.

A premise at the heart of our mission is that consumers should be treated fairly in the financial marketplace and that they deserve a place that will facilitate the resolution of their complaints when that does not happen. As of June 1, 2014, the most up-to-date numbers are that we have now received nearly 375,000 consumer complaints on credit reporting, debt collection, money transfers, bank accounts and services, credit cards, mortgages, vehicle loans, payday loans, and student loans.

The progress we have made has been possible thanks to the engagement of hundreds of thousands of Americans who have used our consumer education tools, submitted complaints, participated in rulemakings, and told us their stories through our Web site and at numerous public meetings from coast to coast. We have also benefited from an ongoing dialogue and constructive engagement with the institutions we supervise, as well as with community banks and credit unions, with whom we regularly meet.

Our progress is also thanks to the extraordinary work of the Bureau’s own employees—essential, dedicated public servants of the highest caliber who are committed to promoting a fair consumer financial marketplace. The Bureau’s employees are our greatest asset.

Their well-being is the reason I was personally troubled and take very seriously the concerns that you have raised about the Bureau’s work environment. That is why we took broad and decisive action to remedy issues related to our performance rating system. After our analysis showed ratings disparities across a wide range of employee characteristics, we negotiated with our union to discard the system, announced that we would adjust past compensation, and agreed to a joint working group with our union to design a new system. By self-correcting and self-remediating disparities in our own performance ratings, we are holding ourselves to the same standard we expect from the industries we oversee.

I have also elevated our Office of Minority and Women Inclusion (OMWI) to work directly out of my office and tasked its leader, Stu-

art Ishimaru, with conducting Bureau-wide listening sessions to hear directly from our employees about their experience with equality and fairness. We have also instituted further mandatory Equal Employment Opportunity (EEO) training for all managers. We will continue to work on creating an organization that consciously embraces diversity.

Mr. Chairman, Ranking Member Waters, on all these issues, I appreciate your active oversight and I believe it improves our agency. I also want to be careful about protecting rights to privacy and due process of our employees, and so today I will try to respect their rights by avoiding any detailed discussion of pending personnel actions or individual EEO cases that are fundamentally private matters in this public hearing. We are glad to provide the committee with closed-door briefings as desired, and as we have done. We take all such allegations seriously and will continue to seek to resolve any of these issues through the appropriate channels.

Every day, my colleagues at the Bureau do great work to accomplish the goals of renewing people's trust in the marketplace and ensuring that markets for consumer financial products and services are fair, transparent, and competitive. These goals not only protect consumers, they also support honest businesses that compete fairly, and they improve the stability of our economy as a whole.

Thank you. I look forward to your questions.

[The prepared statement of Director Cordray can be found on page 68 of the appendix.]

Chairman HENSARLING. Thank you, Director Cordray.

The Chair now yields himself 5 minutes for questions.

Mr. Director, it is no secret that you and I have had both public and private discussions about the accountability of your agency. I look again at the cost, the spiraling cost, of the office renovations. I look to the national debt clock to my left and my right. I think a lot about this issue, and I think a lot about how it impacts my children, particularly when I gaze upon them.

So, the last time you were here, you stated that the cost of this building, I believe, was less than the figure I had, but now the most recent GSA cost is \$139 million-and-change; a \$22 million cost to temporarily sublease space from the GSA while the renovations take place; \$13 million, other costs associated with the temporary 3-year occupancy of your temporary space at One Constitution Square—this is from your documents; \$339,000 to move to the temporary space; \$9,278,000 to pay Skidmore, Owings & Merrill for the renovation.

By my math, this now adds up to \$184 million on a building that you do not own. Do you agree or disagree with the math?

Mr. CORDRAY. A couple of things.

First of all, the government does own that building. And if it is—

Chairman HENSARLING. I understand that. My time is limited, Director Cordray. If you don't believe the math, if you disagree, just please tell me that you disagree.

Mr. CORDRAY. What I would simply say is that there are numbers about the cost of construction to renovate the building, which has been our previous focus. There are also attendant costs now

that we will have to and have, in fact, moved out of the building so the construction can be speeded up and therefore more—

Chairman HENSARLING. I understand that, Director Cordray.

Let me ask you about a couple of specific costs. Again, these come from public documents that have been filed. So, with taxpayer money—you do agree it is taxpayer money, do you not, that you are spending?

Mr. CORDRAY. I would say that I have children, too, and I care about the debt, just as you do, for the same reasons.

Chairman HENSARLING. I just asked, do you agree it is taxpayer money, Mr. Director, that you are spending?

Mr. CORDRAY. It is Federal—

Chairman HENSARLING. Okay.

Mr. CORDRAY. —Government money. We come from the Federal Reserve, as you know.

Chairman HENSARLING. Okay. So it is difficult for you to say—

Mr. CORDRAY. It is American money.

Chairman HENSARLING. —it is taxpayer money.

Mr. CORDRAY. I don't know whether "taxpayer" is the right term or not, but it is the money of Americans.

Chairman HENSARLING. Oh, I assure you those who pay the taxes feel it is the right term.

And so now, what I see—and I, admittedly, have not visited your building. I have visited some Federal buildings. But I don't know how many have "a shady tree bosque, an elevated timber paved porch covered by dark-bronze-color trellis, an illuminated limestone seat wall, a raised water table flowing over a waterfall of naturally split granite, and a four-story interior glass staircase."

Now, the last time you were here, Mr. Director, you yourself had a lot of angst about this process, and you said, I believe—and I don't have your quote right in front of me—that you were not finishing out an opulent space. I don't know how many other Federal buildings have these features. Clearly, this is something which is within your power to say "no" to, to at least symbolically tell the American taxpayer you understand that it is their money.

Mr. CORDRAY. I think every halfway-functioning shopping mall in America has the kind of features you describe. That is puffing by—

Chairman HENSARLING. It is their money, it is not—

Mr. CORDRAY. —people trying to work through the permit process.

Chairman HENSARLING. —taxpayer money, Mr. Director, though. That is my point. I don't know, do other Federal buildings—I haven't seen a waterfall.

Mr. CORDRAY. Come see the building. It is a dump. You want to come see it? Congressman McHenry has been there with his staff. I would invite—

Chairman HENSARLING. Well, apparently, it is—

Mr. CORDRAY. —each of you and your staff to come.

Chairman HENSARLING. —not going to be a dump after you finish with your granite waterfalls—

Mr. CORDRAY. Come see the building.

Chairman HENSARLING. —and your tree bosque. That is really the point, isn't it, Mr. Director?

Let me move on, then, to a different point. I know you were aware, clearly aware, of the testimony that Angela Martin presented before this committee. One of the things she testified to as part of her testimony was that on the evening of August 7, 2013, you called her and told her to have her attorneys “back down.”

First question: Did you call her on the evening of August 7, 2013?

Mr. CORDRAY. I have had a number of conversations with Ms. Martin over the course of her time at the Bureau. We are friends and colleagues. I helped hire her. We have talked about, at times, her different situations, and I have always been one—

Chairman HENSARLING. Mr. Director, I will give you a chance to give some context, but can you first answer the question? You have certainly had an opportunity now to review the matter. Did you call her on the evening of August 7, 2013?

Mr. CORDRAY. I have had a number of conversations with her. I don’t dispute any particular conversations. My goal was to productively resolve her matter—

Chairman HENSARLING. So you don’t dispute—

Mr. CORDRAY. —and we have been doing so.

Chairman HENSARLING. —calling her on August 7, 2013?

Mr. CORDRAY. I don’t know offhand whether I did or not, but I certainly believe that I did if she says so.

Chairman HENSARLING. Do you agree or disagree that at that time, you told her to have her attorneys back down?

Mr. CORDRAY. I simply wanted to have Ms. Martin reach a productive resolution of her complaint, which we did do so within a matter of a couple of weeks. That later was reopened. We have now resolved it again.

I want her to have a good position at the Bureau where she can do good work for consumers. That is what she testified she wants. I was heartened to hear that. That is what I want, as well.

Chairman HENSARLING. She used the phrase “back down,” Mr. Director. Did you tell her to have her attorneys back down?

Mr. CORDRAY. I don’t recall the conversation. But I wanted her to have a productive resolution. I believe that is what she wanted, and I think it is what she has wanted. And I am glad to see that we are now achieving that. I think she will make a big difference for consumers.

Chairman HENSARLING. The time of the Chair has expired.

The Chair now recognizes the ranking member for 5 minutes.

Ms. WATERS. Thank you very much, Mr. Chairman.

Mr. Cordray, we asked the chairman and the Members on the opposite side of the aisle many times to allow you to come before this committee to discuss the allegations of discrimination, et cetera. They did not do that. They chose, rather, to go the subpoena process, to somehow try and emerge in this problem with the description or definition of people who really are going to fight for employees who are discriminated against, et cetera.

We don’t want to see this used as a political football. Take the rest of the time that I have and tell us how you have managed this problem.

Mr. CORDRAY. This has been active oversight by this committee and the subcommittee. I always appreciate the oversight. Some—

times it can be painful to point out shortcomings of ours, and that has occurred here. It is also an opportunity for us to face those frankly and squarely and attempt to do better, and that is what we have done and are doing. This oversight has led us, in particular, to recognize that a performance management system that we put in place that was undoubtedly overly ambitious for an agency that was just starting up and was partially staffed, did not work well for us and did not work well for employees. I heard complaints about it all along on a variety of scales.

We have determined that it categorized employees differently on a disparate-impact basis among different categories of employees. That was not appropriate, in my view. We have now discarded that system and are working with the union in negotiations. We will have a new system for the coming 2 years, and we will work with the unions on a long-term solution to this.

In addition, it felt to me that employees who were harmed by the previous system were entitled to be squared up for what should have been the treatment of them, and that resulted in remediation. Those were big steps to take. Other agencies have had similar issues and have resolved them similarly but often after long legal processes and drawn-out legal processes. We remediated this quickly because we thought it was the right thing to do and it was important for us to do that. Broader than that are issues of culture at the Bureau, and these are things that are very top-of-mind for me and personally engaged in going forward.

Stuart Ishimaru, whom you know, former EEOC Commissioner, a very strong figure, is our head of the Office of Minority and Women Inclusion. He has been elevated to directly work with me on these issues, and he is engaged across the Bureau in understanding how people may be affected by culture, job opportunities, promotions, and the like. That is an ongoing investigation. We also are retaining a third-party consultant who will help us focus on these issues going forward.

Frankly, as I look back, we were a start-up agency. We still are, in many respects. We were ambitious in what we were trying to accomplish. We tried to do too much and put a lot of pressure on our employees, and that created various issues and problems. I take responsibility for that. It is important for us to understand and fix those things going forward. I am dedicated to doing so. I know you will have me back repeatedly to ask about our progress, and I will be happy to provide updates on that progress. And I expect you will find that we will make significant progress. And that will be good for the Bureau and good for its employees, which is ultimately my goal. I want everybody at the Bureau to have a working environment in which they can do their best work on behalf of American consumers. In spite of all the obstacles, they have done extraordinary work in the first 3 years of the Bureau, and I am confident they will continue to do extraordinary work. The people I am proud of are the people who work every day at the Bureau and who work hard to stand up for American consumers. And it is a necessary role, and it is an important role. And I appreciated the chairman, in his opening, recognizing that consumer protection is very important for Americans, who, after all, are constituents in each of your districts and who need someone standing on their side to see that

they are treated fairly in the financial marketplace. That is what we will continue to do. And the oversight of this committee, painful as it has been at times, has been very helpful to us and, I believe, will be a benefit to our employees.

Ms. WATERS. Thank you very much.

And as I understand it, you have included the employees themselves in getting involved in helping to carry out the kind of rules and oversight within the agency. Would you tell us a little bit more about that?

Mr. CORDRAY. Yes, very much so. And this may have been something we neglected, looking backwards.

We did not have a union until last year. The union has actually forged a very productive working relationship with us. They were adamant that the performance management system needed a fundamental overhaul. I had come to agree with that, myself. That is where we arrived in the bargaining negotiations. And they have had a strong voice in resolving some issues that were causing pain to our employees, such as issues around office space, issues around travel, and other various complaints we have heard.

I do want to stress, and I think it is important, our annual employee survey, which actually, contrary to some of this scrutiny, indicates a group of employees who have high morale, higher than the average government agency, and a strong dedication to the mission of the agency.

The Bureau's employees are the ones who do the extraordinary work every day. I do a limited amount of work; I do as much as I can, but I am just one person. They do all this work—putting \$4 billion back in the pockets of consumers, making sure that the mortgage market is safe but not overdone, and that access to credit is respected, as a number of you have indicated is important to you. That is the important work of the agency, and it is done not by me but by close to 1,400 people of whom I am very proud.

Ms. WATERS. Thank you. I yield back.

Chairman HENSARLING. The Chair now recognizes the gentlelady from West Virginia, Mrs. Capito, the chairwoman of our Financial Institutions Subcommittee, for 5 minutes.

Mrs. CAPITO. Thank you, Mr. Chairman.

And thank you, Mr. Director.

I would like to go to the issue of the collection of the data, the personally identifiable information (PII) data.

In the Federal Register, on April 16th, I believe, of this year, it was noted that certain data was going to be collected in conjunction with the CFPB and the FHFA. And last week, we had a hearing where Congressman Westmoreland from Georgia read through the extensive list, and it was quite extensive.

I would like to ask you about just a couple of those, although I am sure my colleagues will have other questions.

First of all, religion is mentioned as one of the pieces of data that is going to be collected on individuals. What kind of relevance does that have to why we are collecting this data?

Mr. CORDRAY. I would like to say two things. One is a general point, and one is specific to that point.

The general point is: What people are reading from, and it has been somewhat misunderstood and misinterpreted, is a bureau-

cratic item known as a statement of records notice (SORN). It calls out what may or may not occur about collections of information and the effect on privacy, so it was overstated in terms of what the National Mortgage Database actually will be.

I am going to assure you today and commit to you, as I did to the Senate Banking Committee last week, that we don't have any purpose in collecting religion. That will not be in the National Mortgage Database, I can assure you of that.

Mrs. CAPITO. Okay. So that information will not be collected.

Mr. CORDRAY. What is happening is—

Mrs. CAPITO. Well, that is a “yes” or “no” right there.

Mr. CORDRAY. It will not be in the National Mortgage Database.

Mrs. CAPITO. So—

Mr. CORDRAY. What we have to—let me try to explain this, because there is a gap there that I want to make sure you understand. In order to get information, we have to buy it from commercially available sources. Whatever we buy is an off-the-shelf thing that has things in it. Then we work with the credit reporting agency, not employees of the Bureau or FHFA, to de-identify that information and take out things like name, address, and Social Security number. Religion will be among the things taken out. None of our employees who work with the database will have any of that information available. We don't need it, and it would not be appropriate. And that is my commitment to you.

Mrs. CAPITO. Okay. So that is kind of an in-between answer there.

What about education and employment records? It says, “records.” Does that mean hiring, firing, transcripts of educational achievement?

Mr. CORDRAY. I don't believe any of that will be in the National Mortgage Database, but I would be happy to have staff get back to you on those specific points. Again, the information will be de-identified before it is poured into the National Mortgage Database, and our employees will only have access to the de-identified information.

Mrs. CAPITO. Okay.

Life events in the last few years and financial events in the last few years—how does that get collected if people don't self-identify what a life event would be? Is that—

Mr. CORDRAY. Again, I don't believe that is necessarily—

Mrs. CAPITO. —a thing you can purchase?

Mr. CORDRAY. —any of that, anything about you or me personally is going to be part of this mortgage database. But I am happy to have staff follow up with you to give you very specific answers on—

Mrs. CAPITO. Who makes the determination of what is de-identified?

Mr. CORDRAY. It is, frankly, a fairly standard thing that is done throughout the government. Particular identifiers that would tell us that it is my information or your information such as name, address, Social Security number, phone number, and bank account numbers are stripped off. That is typically what we do with all of our databases, because we are not interested in knowing what Representative Capito was doing for dinner last night or any of that

spending information. Private companies care a lot about that, and that is what they home in on.

We are interested in knowing, what is the pattern of how consumers are affected in the marketplace? And de-identified information is perfectly sufficient for those purposes. We don't need and we don't want more. The other stuff potentially gives us problems and doesn't advance our mission.

Mrs. CAPITO. Okay.

One last question: How many people would have access to this database within the CFPB and the FHFA? I would assume that numerous—

Mr. CORDRAY. It would be a limited number of people. My understanding is that the National Mortgage Database will not be used for enforcement or supervision purposes. It is a research tool.

It is designed to close a gap that Chairman Bernanke described several times both publicly and to me, and Chair Yellen has reinforced. We didn't know enough about the mortgage market before the crisis. If we had, we might have headed off some aspects of the crisis.

That blind spot was enormous—enormous cost to the American people. I know your constituents and my colleagues and friends and neighbors, people lost jobs, people lost homes. If we had known more about what was happening in the mortgage market, we might have headed that off.

This information is very crucial for those purposes.

Mrs. CAPITO. Okay.

And finally, I am going to make a quick comment, because I just have 20 seconds left. I think that you can certainly appreciate the data security issues that we are—

Mr. CORDRAY. I do.

Mrs. CAPITO. —dealing with here, the most publicized one being the Target breach, but—

Mr. CORDRAY. Yes.

Mrs. CAPITO. —others, where millions and millions of records have been compromised. And that is something that I think—if you are going to cast a wide net, which you obviously are, to collect everything and then only take a few things, I still think it doesn't give us a measure of comfort, not just about the security issue but the usage of the information once we get it.

But thank you.

Mr. CORDRAY. I am happy to try to continue to work with you. I know you and some of your colleagues and those in the Senate are very concerned about this.

GAO is looking at our data collection efforts. They will give us a thorough account of that, I am sure, and we are glad to learn from it. We don't want to have these problems either. It is not going to be helpful to my agency.

Chairman HENSARLING. The time of the gentlelady has expired.

The Chair now recognizes the gentlelady from New York, Mrs. Maloney, the ranking member of our Capital Markets Subcommittee, for 5 minutes.

Mrs. MALONEY. Thank you very much, Mr. Chairman, and Ranking Member Waters.

And welcome, Director Cordray. This is your fifth semi-annual report to Congress. And I believe your agency has a remarkable success rate in helping consumers and veterans, our servicepeople, not only on large policy decisions but on individual problems, processing truly tens of thousands of consumer complaints. So I want to recognize that good work.

And I want to focus on the work that you are doing now on prepaid cards. I read in the paper that you are conducting a review and will be issuing a report on prepaid cards. And I went to the Internet when you put up two suggested forms on how to disclose information. I am a big fan of number one. Model number one, I think, is far clearer.

But I understand it was out for comment. Comment closed in April. Could you give us some feedback on what you learned from this field testing of better disclosure on prepaid cards so that consumers understand what they are buying and the services they are getting?

Mr. CORDRAY. I feel like we got meaningful additional feedback just there. I will put you down as a fan of model number one. We will add that to our data.

What we are doing there is, prepaid cards are a growing, fast-growing, explosively growing market for a lot of Americans and, particularly, a lot of low- and moderate-income Americans, who often will have benefits loaded by State and local governments and the Federal Government onto these cards. And then they can be used, if they are general-purpose reloadable cards, as a kind of a bank account for people who don't necessarily have access to the banking system.

What people don't understand right now is those cards are not protected by any of the consumer financial protection laws currently. They are a new product. That is a hole in the fabric. We will be not just doing a report, but we are going to be putting out regulations that will provide new protections for those cards.

One of the things we are trying to figure out, as you noted, is when you have a very small package of a prepaid card—like you see at CVS and places where you buy them off the rack—how do you package the kind of disclosures consumers need? It is a very tricky and difficult thing because there is limited real estate available for that. And the rest of the disclosures may be inside the packet, so you don't see them all.

Mrs. MALONEY. I understand that. It is not helpful to have the disclosure inside, the fees inside. I hope you are being—will you address that in your rules and make—

Mr. CORDRAY. We will be addressing it.

Mrs. MALONEY. —sure consumers can see that?

Mr. CORDRAY. It is not as helpful, absolutely. And so that is why we are trying to create clear, straightforward, comparable apples-to-apples disclosure so that people can look at different prepaid cards and get a good sense of the fees, the key fees. And that is work we are doing right now.

Mrs. MALONEY. Another area is that two prepaid companies allow for overdraft. And I, for one, feel a prepaid card is money management for individuals. Let it be a prepaid card, not get into

credit and credit cards. So I am a fan of not allowing overdrafts on prepaid cards.

Can you comment on that? Are you doing a study on that in any way?

Mr. CORDRAY. I will note your comments on that. That is one of the issues that has come up quite a bit with respect to this rule. We are working through that, and I expect we will have a rule toward the end of summer. And that will be out as a proposal for public comment. Lots of people will have a say on that. But that is certainly one of the main issues that is being considered on these cards.

Mrs. MALONEY. One of the areas that we worked together on was credit card reform. And this body passed a strong credit card reform act, which the Pew Foundation said saved consumers \$10 billion a year, some economists said that it saved \$20 billion—they re-addressed their numbers down to \$16 billion a year; still, that is a lot of money—by ending deceptive practices.

And my question is, in your review of credit cards, how is it working? Are you still getting credit card complaints? Or is this an area that is working well for consumers and for the overall economy?

Mr. CORDRAY. We actually now, under the reform law, are required to report to Congress each year on the effects of the CARD Act and what is going on in the credit card market.

I would definitely give a huge thumbs-up to the work this Congress did on the CARD Act. It has protected consumers, saved them money, and made things much more transparent so that they can see on the front end what they otherwise got stuck with on the back end.

Many of the things that Congress sought to accomplish have, in fact, been accomplished—not always the case with legislation, but, in this case, it has been good. And you can see it in the satisfaction surveys J.D. Power does of consumers. The respect and trust in the credit card market has steadily grown since the CARD Act was passed, and I do think that is a significant reason why that has happened.

Mrs. MALONEY. Thank you very much.

Chairman HENSARLING. The Chair now recognizes the gentleman from Alabama, the chairman emeritus of the committee, Mr. Bachus, for 5 minutes.

Mr. BACHUS. Director Cordray, when you give us assurances that you are not going to use this information, like personally identifiable information, all we really have to go on is that in the Federal Register, your agency has asked permission to collect all this information. Isn't that true?

Mr. CORDRAY. Again, in order to have the information—unless we are going to go out and put a lot of burden on institutions by having them dig around and recreate new information—what we are essentially doing is we are buying off-the-shelf products, and then we are arranging to have a credit reporting agency de-identify that information before our employees can ever touch it, see it, and work with it. That is what is happening with the National Mortgage Database, and it is typically our process.

Mr. BACHUS. But what I am saying is, you are getting permission, you are asking for permission to collect all this information. I am not saying what you intend to do with it. You are collecting all this information.

And the American people, and I think you will agree with me, are very concerned about their personally identifiable information.

Mr. CORDRAY. And I am part of the American people. I am very concerned about it, too.

Mr. BACHUS. At what point will all this come out—you are saying their religious affiliation, their languages spoken. At what point will it come out? After it gets to the agency or before it is ever—

Mr. CORDRAY. Before any of our employees have any opportunity to access or work with that database.

Mr. BACHUS. If it is going to be taken out, why not take it out and then send it to your agency? Let the people who have it take it out?

Mr. CORDRAY. So—

Mr. BACHUS. Wouldn't that be—

Mr. CORDRAY. —that is possible. We can potentially change some of this, but the way we set it up was a third party that deals with this kind of information all the time, a credit reporting agency, is the one taking it out.

Mr. BACHUS. I understand that. What I am saying is, you are saying, "Give us this information, and we will take it out." Wouldn't it be a better approach to say, "Take all that out, and then send it to us?"

Mr. CORDRAY. Look, it is simply a matter of cost. By the time it comes to us, before our employees can ever work with it or see it, it will be de-identified. That is the crucial thing.

Mr. BACHUS. But the cost—

Mr. CORDRAY. But I am happy to think further about the point you are raising.

Mr. BACHUS. But removing all that information you promise us that you don't want, you don't need, you are not going to share, why even receive that information?

Mr. CORDRAY. It is simply a matter—

Mr. BACHUS. And I will say, if you ask permission, you may not take it out, but this regulation is going to be here until it is repealed. There may be another Director.

And, also, what troubles me is that you have asked this permission. You said, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature and whether arising by general statute or particular program statute or by regulation, rule, or order issued pursuant thereto. That almost seems like any reason.

The relevant records and the system of records may be referred as a routine use to the appropriate agency, whether Federal, State, local, tribal, foreign, or a financial regulatory organization, including FinCEN, and other law enforcement government entities, as determined by your agency and by FHFA to be appropriate.

So you can share this information with any other government agency. And you may intend to scrub this information, but someone else, once it is received, may not.

And you say only a few people will have the ability to go in and see that. If we are talking about scrubbing 227 million mortgages alone, not to speak of the credit transactions of credit cards, we are talking about thousands of people who will have to be doing that.

Mr. CORDRAY. Again, that will be done before the information comes to our agency, so any potential sharing will be the de-identified information.

Mr. BACHUS. If it is done before you get it, why ask permission to receive it? Do you see my point?

Mr. CORDRAY. I do. I think that is a fair point. And I would like to come back to you on that.

Mr. BACHUS. Sure.

Mr. CORDRAY. And there may be some different ways we can capture that.

Mr. BACHUS. And let me say—I have 41 seconds.

Mr. CORDRAY. GAO is also looking at this, and—

Mr. BACHUS. Sure. And I would like to pursue that with you.

Mr. CORDRAY. Yes.

Mr. BACHUS. You know, participants in the auto financing industry, auto dealers, they keep asking for clarification on the use of disparate impact methodology being applied to vehicle finance. They still don't have that, do they? You are enforcing a rule and they really don't know what your methodology is.

Mr. CORDRAY. There has actually been a lot of discussion with industry around this, and we have presented our methodology. There was a webinar with the Federal Reserve, where we and the Federal Reserve largely agreed on the methodology and presented to industry. We—

Mr. BACHUS. Would you share that with us?

Mr. CORDRAY. I believe we have. I know—

Mr. BACHUS. Okay.

Mr. CORDRAY. —the chairman has been very vigorous in oversight on this issue, and we have provided a lot of information.

Mr. BACHUS. If you can just share your information to clarify the use of that—

Mr. CORDRAY. I can say one more thing today—

Mr. BACHUS. Sure.

Mr. CORDRAY. —I know is of interest to both you and many others. We are working on a White Paper on the proxy methodology, in particular, that we expect to have out later this summer. We are continuing to try to respond on this issue to make sure people understand.

Mr. BACHUS. Thank you. And, finally—

Mr. CORDRAY. The industry works on this all the time on their own.

Mr. BACHUS. Okay. Thank you—

Mr. CORDRAY. They know this very well. They are trying to fend off private lawsuits.

Mr. BACHUS. And thank you for the billions of dollars' worth of refunds that you have gotten for the American people. I do appreciate that.

Mr. CORDRAY. Thank you.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentlelady from New York, Ms. Velazquez, for 5 minutes.

Ms. VELAZQUEZ. Thank you, Mr. Chairman.

Mr. Cordray, thank you for your service, and welcome to the committee.

Deceptive debt collection practices are becoming a major issue for consumers and servicemembers alike. Nearly one-third of consumer and 45 percent of servicemember complaints were associated with the debt collection industry.

What is your agency doing to address this issue? And is there any outreach that you are doing today to inform consumers of their rights?

Mr. CORDRAY. It is a great issue. It is an important issue. It is one on which we are actually receiving more consumer complaints than any other issue, interestingly. And we are trying to address it with all of our tools.

So, just briefly, what we are doing: We have had a number of enforcement actions against debt collectors that we believe and found to have been violating the law. We have the ability to supervise and examine debt collectors now for the first time at the Federal level, and we are engaged in that process, which helps clean up a lot of violations and puts people on their toes.

We have developed some consumer tools, such as sample letters that consumers can use if they believe they are being called and harassed at the workplace, which is not appropriate after the appropriate hours, other things, and exercise their rights.

And, perhaps most important of all, we are embarked on a rule-making process—we are in the early stages of it now—where we are going to be overhauling the rules that apply to the debt collection industry broadly, responding to a number of the types of concerns that you are raising. We also have heard from people all over the country, both consumer groups and industry, and also just regular folks that we talk to in our public hearings.

Ms. VELAZQUEZ. Thank you. And the Dodd-Frank Act directed HUD to publish new information materials on the importance of presale home inspections. I understand that HUD is in the final stages of completing that process. With all the work CFPB has done to better inform consumers during the home-buying process, has there been any discussion about making similar home inspections literature available to new homebuyers?

Mr. CORDRAY. First of all, I am pleased. HUD has been a great partner, and that is a great initiative that they are doing. I actually—I mentioned this before to this committee—worked on that issue at the State level years ago when I was in the Ohio Legislature, and it is very important. We are working together with HUD on lots of outreach information to consumers. They have some great substance and tools, and we are developing some, I think, great substance and tools, in particular, I want to say, around housing counselors. We have worked together to get information out to the public that I think will be very helpful to people, particularly in saving homes and also thinking hard about how to go about buying new homes.

So, it is a good partnership. I have enjoyed working with Secretary Donovan. I believe he is now potentially on his way over to

OMB, and he will be a great partner there, and I am looking forward to the next HUD Secretary, whom I believe had a hearing yesterday, and we will work with him, as well.

Ms. VELAZQUEZ. Thank you.

Section 1071 of the Dodd-Frank Act requires banks and lenders to collect and report credit application data on small businesses as well as minority and women-owned businesses. Can you address recent criticism that collecting this information will be too onerous for banks and could lead to less small business credit?

Mr. CORDRAY. Our strategy on this is twofold. First, we have a number of things Congress has required us to do, and one is to overhaul the Home Mortgage Disclosure Act (HMDA) database information. We have worked with the Federal Reserve. That will be moving over to us in the next several years, and we believe we may be able to build on that to then complete the requirements of Section 1071, the small business information, which will be potentially of great use to small businesses across the country. I also have been a little remiss. There is a new SBA Administrator in. I am looking forward to reaching out and working with her to see if we may be able to work together in scoping this out.

But that is the sort of approach we are taking. I think it makes sense. And in the HMDA rules, we are looking for ways to streamline some of the data collection so it is easier for industry, and I think they are enthusiastic about what we are proposing in various respects, and we would like to be able to do the same here. We want to minimize burden if we can, but still accomplish the purposes of this statute.

Ms. VELAZQUEZ. Do you have any sense as to when you expect to publish rules implementing this section?

Mr. CORDRAY. The HMDA rules will need to come first. That is the sort of cart-and-horse order, I think, that works here, and then this will follow in turn.

Ms. VELAZQUEZ. Thank you, Mr. Chairman.

Chairman HENSARLING. The gentlelady yields back.

The Chair now recognizes the gentleman from New Jersey, Mr. Garrett, the chairman of our Capital Market Subcommittee.

Mr. GARRETT. Thank you, Mr. Chairman.

And thank you, Director.

The American public asks us in Congress, in Washington, to be prudent in our use of their tax dollars, and I believe all the banking regulators and other regulators in D.C. ask the institutions that they regulate to be prudent in their management of their operations as well. So let me just spend a minute or two on where the chairman initially began his questioning with regard to the less-than-prudent handling of your operations and the spending of money on your headquarters.

Correct me if I am wrong, but I don't think I am on any of these numbers, the original estimate for the cost of the reconstruction of your building was \$55 million, then it went up to \$95 million. In May of this year, your legislative staff confirmed that the cost of demolition and reconstruction of your building would be \$139 million. Your staff is correct on that, I assume, Director Cordray?

Mr. CORDRAY. What you just described is a garble that we have seen repeated in many places, that this supposedly started off as

a \$55 million project and now has ballooned into something other. That is not correct, and I tried to correct the record in the Senate Banking Committee last week and I will do it again here.

Mr. GARRETT. What about—

Mr. CORDRAY. That was never our estimate for the project. That was a placeholder budget number in the first year of what we were devoting toward the larger project.

Mr. GARRETT. What are the numbers right now, then? Your legislative staff gave us in May, the cost of demolition, the construction of the building, at \$139 million. That is what they told us. Is that correct?

Mr. CORDRAY. I believe that is correct.

Mr. GARRETT. Okay.

Mr. CORDRAY. And an audit done of the building before the CFPB existed indicated that the work done on it at that point required \$107 million worth of work, and there is actually more that has deteriorated since.

Mr. GARRETT. Right. So on top of the \$139 million, you have the lease of the temporary space of \$22 million; the top of that is a utilities and securities for \$13 million, and the combined amount on the three task orders already is \$9.2 million; some other things for about \$400,000. So you add it all up, and right now we are at \$184 million, give or take. This is from your staff and from another place. That is a ballpark figure?

Mr. CORDRAY. Again, that is including a lot of things that are not cost to construction. They are other things. The reason—

Mr. GARRETT. This is what it would cost to go from the dump that you are in to a building that you just told the Senate, even after we spend this money, in your own words, is still not optimal. Is that correct?

Mr. CORDRAY. I would say it will be good, not optimal. That is correct, yes.

Mr. GARRETT. Right. Okay.

In January, you told the chairman the number that you were looking at was around about \$70 million at that point in time. That was your testimony here for the cost. Maybe you were just basing that off of the \$55 million as the placeholder. Be that as it may, we are now at—

Mr. CORDRAY. I don't recall that. I would be interested in seeing that excerpt.

Mr. GARRETT. Okay. Be that as it may, we are now at \$184 million. Depending on how you break down the cost of that on a square-footage cost, it is more than double of what any commercial luxury property in D.C. is. Do you think that is a prudential way of handling this matter?

Mr. CORDRAY. But now you are into apples and oranges. That is not a square-footage cost. The construction is the square-footage cost. You are including things—we moved out of the building in order to avoid additional costs that would have occurred if we had renovated in place. That was going to be more expensive. That was what was determined. So we are attempting to be prudent here even though—

Mr. GARRETT. This is a \$153 million building. Even if you stave off \$10 million or \$20 million here for your relocation costs, you are

basically taking a \$153 million building and spending around \$153 million to refurbish it and make it into a nothing more than optimal building.

Mr. CORDRAY. You want me to describe the condition of the building? We would be glad to have you come in—

Mr. GARRETT. No, I—

Mr. CORDRAY. If you can take an hour, we will have you come and take a tour. I would love to have you do that.

Mr. GARRETT. Yes. So do you think it was a bad decision by either you or your predecessors in 2011 that when they entered into a 20-year as-is contract on this building, knowing that this building is a dump, why would anybody from your agency enter into such a contract? And would any of the agencies that you have oversight of be chastised for entering into contracts like this?

Mr. CORDRAY. The rent that we are paying takes account of the fact that we are responsible for the renovations. That is a somewhat unusual arrangement—usually the landlord would renovate, and the tenant would not—but our rent was calibrated off of that. So over the 30 years of the occupancy agreement, it comes out to be appropriate rent for essentially a class B building, which is about what we will manage to be. The other thing is it is a government-owned asset. We could just let it deteriorate into a white elephant kind of—

Mr. GARRETT. If you had this to do all over again, if you were just coming in, would you have done the exact same thing, rent a building like this and then spend \$184 billion to redo it, or would you do something different?

Mr. CORDRAY. I think I probably would. I think it is still the right answer. But, there are obviously challenges. And if I could describe—

Mr. GARRETT. Okay. Thank you.

Mr. CORDRAY. Do you want me to describe the condition of the building?

Mr. GARRETT. No. My time is up. I think—

Mr. CORDRAY. Feel free to come see it. We would like that.

Mr. GARRETT. Mr. Chairman, I think that is probably the wrong answer to hear that a bad decision that was made back in 2011 or 2010 would be replicated today.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Massachusetts, Mr. Capuano—no, apparently the Chair now recognizes the gentleman from New York, Mr. Meeks, for 5 minutes.

Mr. MEEKS. Thank you, Mr. Chairman.

And I want to first thank you, Director Cordray, for the great work that you are doing at the CFPB on behalf of, of course, everybody in the Fifth Congressional District, but also I think for working Americans, our veterans, our college students, the elderly, women and minorities, and the list can continue.

I was just informed that, for example, in just 2 years, your enforcement actions have resulted in almost \$4 billion directly refunded to more than 12.6 million consumers and servicemembers. That, to me, is really remarkable, and we want to thank you for that kind of work, as well as your balanced approach that you have taken in various rules that the Bureau has established.

You have, I believe, listened very carefully and addressed many legitimate concerns that were brought to your attention, and I just want to encourage you to continue in that spirit with the goal of achieving greater small business and nonbank lenders' participation in advisory councils and greater transparency in how these councils work and dissipate information.

And I also just want to make sure that I mention that I welcome your continued resolve and commitment to get to the bottom of the internal management issues that had surfaced recently, and I trust that you are going to do that.

My first question is this: I always had some concerns about the effect of the QM rules, especially as they deal with minority borrowers and the ability to borrow, et cetera. I would just like to get, 6 months now, 6 months after the rule had become effective, could you give me your thoughts on the effects of the QM rule particularly for—

Mr. CORDRAY. Sure. We are a few months in now, and we are starting to get some data. We are working very closely with groups like the National Association of REALTORS® which have been eager to provide data and let us see exactly what is happening in the marketplace, mortgage bankers.

There was a great article in the American Banker yesterday that I thought encapsulated it well, and what it indicated was that the QM rule was having a negligible effect on access to credit. More than 95 percent of the mortgages being offered are, in fact, QM. And, in fact, they said 6 months later, has this really made a negative difference? They couldn't tell. There were a lot of people quoted around the country, including some who said they make hundreds or thousands of mortgages, and maybe only a few dozen have been affected. So, look, we tried hard to strike the balance in a way that was not going to undermine the mortgage market. I think we have done so.

I think people across the spectrum and industry have recognized that we have done so, particularly the patch for Fannie Mae and Freddie Mac in conservatorship has made an enormous difference. But we are eager to hear more, and if there are unintended consequences or unexpected results, we want to know about them and see what we can do to address them.

Mr. MEEKS. On that line in dealing with the American Banker, I think that they made in their assessment that it was largely due to FHA and GSEs that can still largely, they said, I think, operate under approved exemptions.

Mr. CORDRAY. It can.

Mr. MEEKS. I was wondering, how do we prepare for when the FHA and GSEs begin to retract in the market participation?

Mr. CORDRAY. That is a really great question. One of the things we had to do when we wrote the mortgage rules was we didn't know exactly what Congress was going to do about the GSEs or about the FHA program, and so we tried to create some latitude. Congress eventually will settle those issues, not us, and we had to write a rule that could be flexible to take account of whatever Congress would do. That is ultimately up to you all, but I think our rules have allowed Congress to have the latitude to act, while continuing to operate. And I think people have recognized that was a

very important step we took, and it has really helped those rules be much more successful than they might have been otherwise.

Mr. MEEKS. Let me go on to another question in the little time I have left, because your job is really tough, and I know it is not always easy to get it right. On the one hand, we know that close to 70 million Americans are underbanked and don't have access to the traditional banking system and therefore sometimes rely on less-regulated entities for financial services; and on the other hand, they are also more vulnerable and are more easily taken advantage of by these less-regulated entities.

So how do we balance access to credit, which for many equals access to opportunities, versus protecting Americans from predatory financial products and services?

Mr. CORDRAY. That is a central core issue for the Bureau now. Our Office of Financial Empowerment is very focused on that issue. We are working with the FDIC, who has had a lot of focus on the unbanked and underbanked issues. The prepaid card rule that we are developing will be very important in that respect. And I think some of the other work I see going on around the country—the New York attorney general yesterday announced an initiative with Capital One with respect to people being barred from the checking account system. These are things that are important for us all to work on together and make sure that more Americans can have access to the banking system, which is a great way to protect them, or if they don't have access to the banking system, for whatever reason, including that they just don't want to be in a bank, they have tools and opportunities available to them that can work for them.

We had a field hearing in New Orleans last week on mobile payments. That is a potential promising technology as well, and we want it to be a pro-consumer technology.

Mr. MEEKS. Thank you.

Chairman HENSARLING. The time of the gentleman has expired. The Chair now recognizes the gentleman from Texas, Mr. Neugebauer, the chairman of our Housing and Insurance Subcommittee.

Mr. NEUGEBAUER. Thank you, Mr. Chairman.

Director Cordray, I think we have been talking about this data collection, and so, I guess, one of the questions is, where are you getting this data from?

Mr. CORDRAY. We buy it from the same commercial sources that everybody else buys it from.

Mr. NEUGEBAUER. What are the names of those vendors?

Mr. CORDRAY. I don't recall offhand, but I would be happy to get those to you and to your staff.

If you are talking about different types of information, there are times when we go directly to institutions and make efforts to do voluntary collections from them, and work with them to try to make sure those are not unduly burdensome. There are also times where we collect information through the supervisory process. So, there are lots of places where we can get information, and we try to be careful about handling it carefully.

Mr. NEUGEBAUER. When you testified before, one of the things I pointed out is that I am not sure who is going to win the race on who is collecting the most data, NSA or your agency. Now that we

have restricted the amount of data, NSA, I think, is going to win that contest.

I think the question that comes to my mind is, you are tracking millions of mortgages, 990 million credit card accounts, and the question begs: Why are you collecting this much data when, if you say it is just for research purposes, most researchers take samplings, and it looks like to me it would make it more cost-effective to take a sampling of data that you are going to have to redact.

But when you talk about the number of records that you are talking about collecting, and redacting those kind of records, and making sure that the personal identifiers are not there, it appears to me there is going to be a huge cost for something. And so the research answer doesn't really seem to resonate here, or you wouldn't be collecting that amount of data.

Mr. CORDRAY. Yes, and you raised this point with me in a private conversation we had some months ago, and it was a good point. We went back and thought further about it, and I think we made more progress on it. The National Mortgage Database that we are talking about, we are only going to collect data on 5 percent of mortgages. We are going to do a sampling, just as you said, for the reasons you said, and we can collect a limited amount of information for that purpose.

On credit cards, there are times where when we go to institutions, and they tell us, look, it would just be easier for you to tell us to give it all to you rather than making us bear the cost of making some sort of slice of it, and it may or may not be objectively, statistically unbiased, et cetera. Sometimes they tell us it is easier for them just to give us what we are asking for rather than do a lot of work to sort through it. On the National Mortgage Database, we are just doing a sampling, and limiting ourselves to 5 percent. If it is a reasonable sample, that will do the job, just as you had indicated to me when we had this discussion. We will continue to try to do that where that is sufficient.

Mr. NEUGEBAUER. The other issue which continues to be, I think, of great concern in some of this collecting of huge amounts of data is the security of that data. And at a presentation, I think on June 11, 2003, Bob Avery, the FHA's Project Director for the National Mortgage Database stated the following: "We believe that we created a public data set, as wide a set of users as possible, so that there are major challenges in keeping this data secure. He says that it is easy to reverse-engineer and identify the people in their database.

And I know you keep hanging your hat on, hey, we are redacting the personal identifiers, but here is the guy who is overseeing the project, and he says it is very easy to reverse-engineer, so that doesn't give me a lot of confidence.

Mr. CORDRAY. But that is a quote. There is a longer passage there in which he says it could be easy, but there are things we are doing to be more productive. They had the same quote over in the Senate and made the same point. If you read the whole passage, you will see we are all aware of the problem, we are concerned about the problem, we recognize the risk it could pose to our agencies if we mess that up, and we are working hard to avoid those results. So, it is a challenge. I don't want to in any way mini-

mize that. It is a challenge that I am as concerned about as you are, because the reputation of our agency is on the line, and we are working hard to try to address it. And I believe if you look at Mr. Avery's full statement, that is his outlook as well.

Mr. NEUGEBAUER. A lot of the financial institutions that you regulate have to issue privacy statements to people to let them know that, hey, we have a lot of personal data on you. Are you giving the American people a privacy statement about all of the data that you are holding on them?

Mr. CORDRAY. Actually what we are trying to do is minimize the burden on industry of those annual privacy notices, and some of your colleagues have been pursuing legislation on this. We have proposed a regulation to accomplish the same purpose, and I think it will actually be beneficial.

In terms of what we are doing, again, this is de-identified information. What industry does is something different. They are interested in, Representative Neugebauer, what are your spending habits? What do you do? They want to know all about you. The Bureau doesn't care to know about you or me; we want to know about how the general pattern of consumers is affected. De-identified information is a very different issue than the privacy issues of individual information that is personal to me.

Chairman HENSARLING. The time of the gentleman has expired. The Chair recognizes the gentleman from Massachusetts, Mr. Capuano, the ranking member of our Housing and Insurance Subcommittee.

Mr. CAPUANO. Thank you, Mr. Chairman.

And thank you, Mr. Cordray.

Mr. Cordray, I want to follow up a little bit on Representative Neugebauer's questions on data. Do you keep this data for long periods of time?

Mr. CORDRAY. I believe we will keep it for long periods of time, yes.

Mr. CAPUANO. Do you share it with any other agency?

Mr. CORDRAY. We use this data for our own research purposes, both on the credit card market and the mortgage market, and, frankly, it is critical data. If we don't have it—

Mr. CAPUANO. I understand. I am not against the concept.

Mr. CORDRAY. Yes.

Mr. CAPUANO. I want to know if you are sharing it with anyone else.

Mr. CORDRAY. It depends. The National Mortgage Database is a joint project of the CFPB and the Federal Housing Finance Administration, so that is a joint project by definition, so we are sharing information.

On our Consumer Credit Panel and credit card database, that is something we use. I don't honestly know if we are sharing it with anyone, but I think we are—

Mr. CAPUANO. Is the information being shared with the IRS?

Mr. CORDRAY. Not that I am aware of.

Mr. CAPUANO. Is it being shared with the NSA?

Mr. CORDRAY. I don't know. I am quite sure it is not.

Mr. CAPUANO. All right. Because I don't mind you collecting the data to some extent for the purposes as you describe them. I do

prefer sampling. I think that is the better way to go, and you have said you are heading that way.

Mr. CORDRAY. Yes.

Mr. CAPUANO. But I would object incredibly strongly to having that information shared beyond those parameters. And honestly, why are you keeping any of the data? Once you do your research, why keep it?

Mr. CORDRAY. Because it is ongoing work that we are having to do. We need to see what is happening in the mortgage market over time. It isn't just—

Mr. CAPUANO. I understand where you would keep the results, the conglomeration of the data. So you collect 1 year, you can conglomerate it, see how many mortgages, how many people are there. I get that. Keep that. Why keep the individual data?

Mr. CORDRAY. Again, it is the pattern of data that we are keeping and the pattern of how markets are affected—

Mr. CAPUANO. Are you keeping my individual mortgage data—

Mr. CORDRAY. No. —

Mr. CAPUANO. —for 20 years?

Mr. CORDRAY. De-identified, so nobody would have any idea that it is you or me—

Mr. CAPUANO. Yes, I have heard that before.

Mr. CORDRAY. Right.

Mr. CAPUANO. I love you, and you know I support the agency, but I don't trust that answer from a governmental agency.

Mr. CORDRAY. Okay. I'll tell you what, we would be happy to have our staff brief your staff.

Mr. CAPUANO. I would very much like that. I am very supportive of what you do. I am supportive of you doing research. I am not supportive of anyone gathering additional data that is unnecessary or kept for inappropriate time periods.

Mr. CORDRAY. Fair enough. Okay.

Mr. CAPUANO. Mr. Cordray, the last time—actually you weren't here because at that time you weren't allowed to come to the committee, but there were others from your agency. The last fight I had, had to do with QM, because I asked a very simple question. At the time people were saying, oh, my God, QM, it is going to disqualify 40 percent of the people who are currently eligible for mortgages from ever getting a mortgage. Has that happened?

Mr. CORDRAY. There were people who said that it would double the cost of a mortgage—

Mr. CAPUANO. Yes.

Mr. CORDRAY. —and cut the market in half. That was absolutely wrong, and the American Banker article just yesterday, interestingly, verified that the market is about the same as it was before QM, but with more protections in place, and it has had negligible costs.

Mr. CAPUANO. So QM did not kill the situation, it actually helped consumers. Do you think that is a fair assumption, a fair conclusion?

Mr. CORDRAY. The housing market is challenged right now, and it has to do with things like the interest rate popped up last summer and the winter, and other things that people have pointed to. But the QM has not killed the mortgage market. I think it

strengthens the mortgage market over time by giving people more confidence.

Mr. CAPUANO. QM has done exactly what it was intended to do without having a negative impact on the market?

Mr. CORDRAY. I believe so. And if there are unintended consequences revealed to us, we are in close contact with people like the mortgage bankers, retailers, et cetera, and we will take account of those issues.

Mr. CAPUANO. I ask you that because I have not had a single complaint about the impact of QM on individual borrowers or on the housing market itself. And I am just curious. You are collecting all this data. You would know more than me, so I wanted to ask.

Mr. CORDRAY. Yes. I am glad to hear it, and it is consistent with what we—

Mr. CAPUANO. Actually I don't hear it, which is good. I only hear bad things. I don't hear good things.

Mr. CORDRAY. That is kind of us, too.

Mr. CAPUANO. Last question, when did you get appointed again? Tell me the year.

Mr. CORDRAY. Beg your pardon?

Mr. CAPUANO. What year were you appointed the first time?

Mr. CORDRAY. That's a complicated question. I was recess-appointed in January of 2012.

Mr. CAPUANO. 2012.

Mr. CORDRAY. I had been blocked in the Senate. I was blocked again in the—

Mr. CAPUANO. I know that.

Mr. CORDRAY. I was finally confirmed in July of 2013.

Mr. CAPUANO. I am just wondering if, when you were appointed, were you in this hearing room before it was redone?

Mr. CORDRAY. That guy's picture wasn't on the wall then. He was sitting—

Mr. CAPUANO. Because we had a major remodel of this hearing room just a few years ago, and actually one prior to that a few years before, because when I was first on the committee, I was down in that seat, and it was a folding table, as was the other side.

Mr. CORDRAY. I notice a lot of work being done in the Cannon Building.

Mr. CAPUANO. Do you think that we should have done this room over, or do you think we should have left it in the way that it was?

Mr. CORDRAY. Up to you all. It is a nice room.

Mr. CAPUANO. It is kind of a nice room. It is—actually the colors are very pretty. I guess what I am saying and trying to make the point is working in a decent work environment isn't such a bad thing for anybody to get their job done. Keep doing it.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from California, Mr. Campbell, the chairman of our Monetary Policy Subcommittee.

Mr. CAMPBELL. Thank you, Mr. Chairman.

Continuing on that theme, Director Cordray, and not to beat it to death, but, again, to read that this new building of yours will have a raised water table flowing over a water wall of naturally split granite—at the southern edge, a new water source creates a cascade of water that flows down the water wall into the sunken

garden, terminating in a raised splash pool. More slabs of granite rest in the bottom of this pool.

I thought this room was fine before. I don't see any waterfalls here. But the question I have is, how does that serve your mission of consumer protection?

Mr. CORDRAY. Look, that has been quoted back to me. I feel like if you found some of my old poetry I wrote when I was a kid, it would be embarrassing to have that read in a public hearing. This was the kind of puffery that was working through government permitting processes in trying to get business from the Bureau. The reality is you can describe probably any two-bit fountain on any corner square of any part of the country in the same glowing terms if you wished to do so. The building is a dump. I invite you to send your staff to take a look at it and—

Mr. CAMPBELL. Okay. Director Cordray, this is outside.

Mr. CORDRAY. Yes.

Mr. CAMPBELL. Nobody works outside. Did you—

Mr. CORDRAY. It sounds wonderful, but there is not going to be a lot of cost expended on that, I can tell you that.

Mr. CAMPBELL. The point of all this—because I could read more of this, and it goes on—There is a removed space of rest and contemplation. I thought this was a workplace. But who approved—we have established that there is at least \$185 million being spent on this. Who approved this?

Mr. CORDRAY. Again, we are mixing apples and oranges in those numbers.

Mr. CAMPBELL. No. No.

Mr. CORDRAY. That is being spent on renovating the building.

Mr. CAMPBELL. I understand that includes moving away, your rent for wherever while it is being redone, and then moving back.

Mr. CORDRAY. Yes.

Mr. CAMPBELL. It includes all those expenses. So, say it is \$139 million, whatever the number is, who approved that?

Mr. CORDRAY. Whoever was the leadership of the Bureau at different times approved that, including most recently, myself.

Mr. CAMPBELL. And who outside of the Bureau would have had to review or approve that?

Mr. CORDRAY. There have been various permitting processes we have to work through. We are now working with—

Mr. CAMPBELL. To spend the money.

Mr. CORDRAY. —GSA, frankly, in part to give me comfort around that this is being handled professionally and appropriately. GSA is now involved in the renovation, and they are the experts in the Federal Government work, as I understand it.

Mr. CAMPBELL. But to spend \$185 million of taxpayer money, who outside of this Bureau had to approve that? Not the permits.

Mr. CORDRAY. I approve it, and Congress oversees me vigorously.

Mr. CAMPBELL. Oh, really?

Mr. CORDRAY. Yes. Like you are doing right now.

Mr. CAMPBELL. Oh, really? And what should we do about your budgets? Suppose we don't think you should spend this \$185 million. What can we do about it?

Mr. CORDRAY. I suppose you could change the law.

Mr. CAMPBELL. Ah. I guess we could, but no one approves your—the point here is that in this Bureau, you could spend \$200 million of taxpayer money without anybody outside the Bureau having the ability to change it, approve it, review it, or say no.

Mr. CORDRAY. No.

Mr. CAMPBELL. Director Cordray, it is my time. It is my time.

Mr. CORDRAY. That is not accurate. Not accurate.

Mr. CAMPBELL. That is unaccountability, and that is the problem with this Bureau. They can't do that in the Pentagon.

Mr. CORDRAY. If I could correct the record, we have a GAO audit every year. They have to review what we do, and they can call us out for misspending. The Inspector General does regular reviews of us and has reviewed our budget process. We also have an independent audit that Congress laid on us.

Mr. CAMPBELL. And they are not cutting or approving this before you do it, are they?

Mr. CORDRAY. They are looking at our budgeting process and our spending process, so, yes, this is part of what we are doing.

Mr. CAMPBELL. Director Cordray, the point I am making here is regardless of the mission of this thing and the noble mission for which it was created, the problem with this agency is your unaccountability to anybody outside of the agency. And that wouldn't matter if that is in government or in a private industry or anywhere else; that is a structural problem that you can't have exist.

And when I look at your agency now, one of the things you are supposed to do is stop discrimination, yet you are discriminating within the agency. And then you are collecting data that enables discrimination out in the world where it doesn't currently exist.

You were established because of overspending on housing, yet in my view, and the view of others up here, you are overspending on your own housing.

And then on top of that, one of the things that consumers are most concerned about, as Mr. Capuano indicated, is invasions of their privacy by banks, by whomever, taking that information and abusing it. But now it appears that you are collecting more of that information, and the public has more to fear from you than they do from the bank, because at least you can sue the bank.

It seems like the moral of this agency is do what I say, not what I do, and that is not a good way to run a railroad.

I yield back.

Chairman HENSARLING. Regrettably, the time of the gentleman has expired.

Mr. CORDRAY. Mr. Chairman, no opportunity to respond to that?

Chairman HENSARLING. It is the gentleman's time. He did not ask a question. I am sure that someone on this side of the aisle, Director Cordray, will give you additional time.

The Chair now recognizes the gentleman from Missouri, Mr. Clay, the ranking member of our Monetary Policy Subcommittee.

Mr. CLAY. Thank you so much, Mr. Chairman, and welcome back, Mr. Cordray.

And I don't know, I am one who feels as though the public does need someone watching out for their best interests, and I will let you take a little bit of my time and respond to my statement that

the public does need an umpire or a referee, since not too many of us in this body want to be that umpire or referee. Can you respond to that, Mr. Cordray?

Mr. CORDRAY. Yes. And I appreciate that, Congressman.

When the Congress set about to pass the financial reform law, it recognized that everybody suffered in this country greatly through the financial crisis, and people lost jobs, millions of people. Millions of people lost homes. People lost trillions of dollars in household wealth, and in many communities it has been difficult to recover that wealth.

The point of that reform was to do a lot of things, and one of them was to make consumer protection in the financial marketplace more front and center and to give someone the responsibility. I, and the Bureau, have this responsibility to see that people are treated fairly, and to stand on their side when they are not, and that is something that we take very seriously. As I said in my opening statement, I am very proud of the nearly 1,400 people who work at the Bureau every day to accomplish some of the things that you have described today.

I think the work we do is essential. I think it doesn't take any of us very far to go in order to see that. This is a sophisticated body. All of you work on financial services matters, and you are experts in it, but you don't have to think very far to parents, or grandparents, or cousins, or friends, or sons and daughters to recognize for a lot of people this is intimidating stuff, and it is difficult. And they may or may not know how to get it right, and they may need some protections in the marketplace. I think that we are trying to do that in a balanced and reasonable way. I think it has mostly been recognized even by industry that that is how we have been proceeding. And it is really important because otherwise people end up making a lot of bad decisions—

Mr. CLAY. Not to cut you off, but I certainly appreciate the role you play in protecting consumers.

I am not going to throw you all softball questions. So let us talk about the \$10 billion ceiling for direct examination by the CFPB.

Your IG report which came out last March found that 59 percent of draft examination reports submitted by regional examination teams during the scope of the IG's evaluation did not meet the CFPB's timeliness requirement for submission. Within 30 days of field work completion, 90 percent of the drafts that received headquarters approval as of July 31, 2013, had not been approved by headquarters within the 30-day requirement.

One reasonable take-away from that is that your examination team is stretched too thin. And at a hearing last year, one of the witnesses recommended that the CFPB's \$10 billion threshold for direct examination of financial institutions be raised to a higher level. With the current \$10 billion threshold, you have authority over about 80 percent of our bank assets; if it was a \$25 billion threshold, you would have authority over 75 percent of all bank assets; and if it was \$50 billion, you would have direct examination authority over 70 percent of our bank assets.

Let me ask you this: Would you be willing to work with me and other members of this committee to identify a higher direct examination threshold than the current \$10 billion?

Mr. CORDRAY. I honestly, until you raised it just now, had not given that any thought because our job is basically to enforce the law as is. And I know that when the Dodd-Frank bill went through Congress, there was a lot of debate back and forth over different thresholds, and there are certain thresholds set for some of the financial derivative types of things, and resolution plans and other things are set at a higher level. I guess \$10 billion was the compromise Congress reached on this, and it feels like it is a workable level.

The issue you raised about the timeliness of that particular exam was something we struggled with early on as we were staffing up. We have gotten a lot better on it. We went out and sought input and got input from the U.S. Chamber of Commerce on how to approach this. We went to the clearinghouse of banks to get their input, as well. Our Inspector General has done a careful scrub of this process and recommended many changes and improvements. And we have done our own work on this, and I think that has improved enormously.

So I think we are getting more efficient. I think we can handle the workload. If Congress wants to think about that, we would be happy to provide technical assistance, but I don't have a strong position one way or the other on that.

Mr. CLAY. Thank you for your response.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentleman from California, Mr. Royce, the chairman of the House Foreign Affairs Committee, for 5 minutes.

Mr. ROYCE. Director Cordray, how are you?

I have heard criticism that the CFPB is conducting regulation of financial products and services through enforcement actions and through guidance bulletins rather than through notice-and-comment rulemakings, which, of course, would include input from the public and input from Congress. Since this door has been opened, I think the CFPB has finalized 54 rules, 18 of which were part of congressionally-mandated regulation, and at the same time issued 34 bulletins and 23 enforcement actions.

So if you take out the congressionally-mandated rules, that means the CFPB issued about the same number of rules as it did bulletins: 36 rules; 34 bulletins. The 23 enforcement actions often include specific business reforms. The CFPB promotes the bulletins as statements of law and policy, and the enforcement actions as deterrence, yet in both cases the agency appears to be making policy without obtaining public input, if you follow my logic on that. So if the CFPB intends to impose specific new requirements, wouldn't it be better for the agency to use the rulemaking process, which has the benefit here of notice-and-comment periods, rather than enforcement actions and bulletins?

Mr. CORDRAY. We can do that and, of course, are required by law to do that in appropriate instances, particularly where we are making substantive changes in the law pursuant to congressional delegation.

On enforcement actions, in particular, I don't think there is a law enforcement agency in America that requires a notice-and-comment process before engaging in enforcement action, because you are, by

definition, responding to potential violations of the law, and having that drag along while you are allowing lawbreakers to operate is not appropriate.

I think the issue that you raise is around some of our guidance and bulletins and whether those should be done with notice and comments. Typically, that is not required. But there have been lots of instances where we have put things out for notice and comment anyway. We have done a lot of requests for information to get a lot of input from people, and we are very accessible. We have so far tried to hew very closely to what we understand the law to be in this area, which is notice and comment for substantive administrative rules and not for guidances where we are simply clarifying and laying out the laws. It is already, we believe, understood.

I believe the U.S. Supreme Court has just granted a case around interpretive rules where they are going to, and sometimes this is a difficult line to draw, try to clarify that next term.

Mr. ROYCE. But let me just walk you through sort of an example here, because regulation conducted through enforcement often results in confusion. So I will give you an example, and I think confusion can be harmful to consumers.

By way of example, the CFPB has issued four enforcement orders against banks in connection with the marketing of debt-protection products. Each of the enforcement actions imposed different, quite different, remedial measures.

So banks, of course, under this circumstance, are not certain of what is required of them to safely sell these products. Many have stopped offering the products to consumers. And then a subsequent bulletin related to add-on products did not resolve this uncertainty. So hence the thought here.

If you could clarify the agency's position on debt-protection products so that the financial services industry could understand what is expected in connection with these products, and does the CFPB have concerns about debt-protection products themselves or just how these products are marketed, but the fact that every case is handled differently with different remedial measures leaves that big question mark.

Mr. CORDRAY. It is a fair concern. The remedial measures depend critically on the facts and circumstances of that matter. If the institution was marketing these things telling people that they were signed up when they weren't, that is going to get a certain response. If they are telling them that the product did this, and it didn't—

Mr. ROYCE. I hear you. The four examples. But I have been told that other Federal agencies often enlist the use of advisory opinions to help businesses seeking clarification on specific practices. Would the CFPB consider issuing similar advisory opinions, because then you might have them know on the front end exactly what was expected, and what wasn't, and you wouldn't have, arguably, four different results.

Mr. CORDRAY. That is something we are working to do in appropriate cases. The SEC has done some things, and we have looked at other agencies, and I do think we can probably do more in this area, yes.

Mr. ROYCE. Yes, I think that would move you more towards the input from the public, and input from Congress, and input especially with respect to those who are going to be impacted, understanding exactly where you are going with your rulemaking. Thank you.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair now recognizes the gentlelady from New York, Mrs. McCarthy, for 5 minutes.

Mrs. MCCARTHY OF NEW YORK. Thank you, Mr. Chairman. I appreciate that.

Welcome, Mr. Cordray.

You know, it is funny. When I first got here, a lot of people said I had too much common sense, and that doesn't fit into Congress. And while we were talking about the renovation of your building, I was thinking about the Cannon Building, which is—actually all of our buildings are old. They have already moved out the support staff down in the basements over to another building that they had to renovate so that even Members will be going over there in this new Congress that will be coming up.

I live in an older home that belonged to my parents, and 2 years ago I had to do some renovations, and of course every time you do a renovation, something else pops up. So it ended up costing at least 15 percent more than I had budgeted for.

But I also want to thank you for the work. And I think it is important that we get back to where and why we wanted to have oversight to protect our constituents.

I am sure here Members, many a time, would get calls from constituents to be able to straighten out something that either happened with their financial institution or a credit card, and, of course, we would try to solve that, but now we actually have an area where even the Members of Congress can go with the problems that our constituents are coming to.

But to get back down to what you have been doing, in your testimony you mentioned that the CFPB has been able to refund consumers, which is taxpayers' money, who are victims of violations of consumer financial protection laws by over \$3.8 billion. That is a lot of money to come back to the consumer into their pockets.

You mentioned that the CFPB took action against the payday lender for overcharging servicemembers. That is extremely important because our servicemembers have been taken advantage of, especially those who are overseas. Can you go into further detail of how the CFPB took action in that case?

And I just want to say thank you for trying to educate our constituents on financial literacy. I have been working on this for years, not only on this committee, but on the Education Committee, because that, to me, is the most important thing that we can do for our consumers so they don't get into debt or get taken advantage of.

So with that, I would like to hear your response.

Mr. CORDRAY. Sure. In terms of servicemembers, we have been blessed, because we have a tremendous head of our Office of Servicemember Affairs, Ms. Holly Petraeus. She and her team have done great work across the country bringing back information and stories and problems that active duty servicemembers and their

families and veterans and their families have brought to our attention. Some stories are the general consumer problems, and some of them are made particularly pointed by being an active duty servicemember. And we have been working with the Department of Defense on new rules under the Military Lending Act that I think will really strengthen what has been done there, and that is great work, and it is important work, and we are glad to be doing it.

On the financial literacy front, we are working with servicemembers in particular on an initiative, a financial fitness coaching program for them. And we are doing a lot of things with the Pentagon and the Veterans Administration. I just signed something the other day where Assistant Director Petraeus and her team are going to be working with the Department of Education, the Department of Defense, and the Department of Veterans Affairs around the principles of excellence for making sure that GI bill money is being used effectively so the servicemembers really get the benefit they are promised of a meaningful education that will advance them in life rather than having it squandered on things that don't provide value. And so that is important.

In general, financial literacy is something we don't do enough of in this country, and I know that is a bipartisan issue among members of this committee and Members of the Congress, but it is something at the State and local level people have to recognize they need to do more. You can't send our 18-, 19-year-olds out into the world with no basis to go on and no understanding of the kind of big decisions they are going to be expected to make and think that is somehow going to succeed. It doesn't succeed. It didn't in the run-up to the financial crisis, and it won't now, and it is something that has to change.

Mrs. MCCARTHY OF NEW YORK. We have found in our communities on Long Island that those, especially first-time homebuyers, if they go through some of the nonprofits—and actually it is not just a mortgage. It is the insurance, it is utilities, it is everything that goes with it. Many of us feel that a lot of people who got mortgages should have never gotten them. Never gotten them. And I blame all the bankers because they didn't look closely enough. And unfortunately, that is what caused so much pain in this country and continues to cause pain. The problem has not been solved yet. We are getting there, but it is still something. Thank you for your service.

Chairman HENSARLING. The time of the gentlelady has expired.

The Chair now recognizes the gentleman from New Mexico, Mr. Pearce, for 5 minutes.

Mr. PEARCE. Thank you, Mr. Chairman.

And thank you, Mr. Cordray, for being here.

Mr. Cordray, following up on the questions from the gentlelady from West Virginia, you had mentioned that there are items that you de-identify. Are you going to put that into the Federal Register? Are you going to say publicly that you are going to buy the data, but then you are going the de-identify it?

Mr. CORDRAY. We are going to continue to work with the FHFA. Both of us have been listening carefully not only to hearings like this and testimonies, but also questions for the record and inquiries from this committee, and we will be very responsive to that.

Mr. PEARCE. Okay. Because what I am reading in this is that it says right now that the records in the system may include without limitation, and so if you do not identify those limitations, then later people can come back and say, hey, we told you we are going to collect this stuff, and we are going to use it how we want to. And so unless you correct the record—and by the way, taking exception to something you had said earlier, you said it is going to be a very small, select group who has access to it. One page over, it says a whole list of people have access, but in one spot it says the contractor, personnel, grantees, the volunteers, interns, and others performing work on the contract, so it doesn't—and it identifies the project of the FHFA. So it doesn't sound like it is such a limited group who will be able to look at it.

So I am reading in your book here that you are protecting consumers from unfair, deceptive, abusive practices, and some of the unfairness has come because of the Federal Reserve driving the interest rate to zero. We had kind of a round of questions with a previous witness, and he simply said, well, there is collateral damage.

And I think that this idea that seniors who have saved—and they generally use very unsophisticated products, and so usually it is a savings account, and when they get zero, now they tell me at the town halls they saved enough for retirement. So have you visited with the Federal Reserve about this abusive, unfair practice of driving the interest rate to zero where the seniors get nothing? Have you visited with the Federal Reserve?

Mr. CORDRAY. On your previous point, if I am hearing you, I am understanding you want us to come back to you and keep you posted as the National Mortgage Database moves forward. It will be a much more limited group of people who have access to that, and we will keep you posted on the issues you raise. If you were reading—

Mr. PEARCE. I don't see how that addresses the question I am asking.

Mr. CORDRAY. No, I know. And then the current question, if you want me to respond to it, there is no question that low interest rates hurt savers who are trying to live off the money they have saved, and this is part of the residue of the financial crisis. If we hadn't had the financial crisis, interest rates wouldn't have had to plunge and—

Mr. PEARCE. Okay. Believe me, I really do think somebody should be talking to the Federal Reserve because they are printing money and driving interest rates down, which hurts the poor, and it hurts the seniors.

Under your watch, the agency has decreased the number of seller financing from 3 to 1. Now, in my district, about half of the houses are trailer houses. And what happens is people during their lifetime, they accumulate these mobile homes. Banks generally won't loan money on them. A lot of times, they are pretty old. People would move into them. So it is that whole idea that we would have access—one of your other deals—to credit.

Why are you taking such a limiting stance on seller financing, because that is the way that many trailer houses are sold? I don't think any banks are ever going to come from New York or Massachusetts or anywhere and come out to New Mexico and lend money

on these 30- and 40-year-old trailer houses. But some of the low-end consumers, people who are really struggling to get by in my district, which has per capita income of about \$30,000, so you can guess that there are a lot of people living on \$15,000 or \$20,000.

So why did you do that? Why are you making it so difficult for people to sell these houses, number one, and get their money out of them?

Mr. CORDRAY. I am honestly not sure what to say to you on that issue. I am making a star on that, that we need to come back to you.

Mr. PEARCE. Okay.

Mr. CORDRAY. If seller financing in particular is a problem, then I would like to understand how our rules will be affecting—

Mr. PEARCE. Yes. Because what happens, basically, is people then have to sell them when they get older to a group, and they get stripped of their asset value.

Mr. CORDRAY. Yes.

Mr. PEARCE. Now, my last thing here is I am holding up a summons—I think you have used the words “intimidating stuff,” not with respect to summonses. But included in the second page is the sentence and all the things they are supposed to provide, but then you are not required to produce any records in response to the summons. Isn’t that deceptive?

This is coming from our IRS. And so, again, in protecting consumers, protecting people, these are pretty abusive practices. They deal with the financial world because of that. Do you ever visit the IRS on stuff like this?

Mr. CORDRAY. I don’t have jurisdiction over the other government agencies, so, no, I don’t. I would be happy to see and read what you are—

Mr. PEARCE. Mr. Chairman, thank you, but it looks like we are going to protect consumers from everybody but the government.

Chairman HENSARLING. The time of the gentleman has expired.

The Chair recognizes the gentleman from California, Mr. Sherman, for 5 minutes.

Mr. SHERMAN. Okay. One comment in support of the Fed. People say, oh, we should have higher interest rates so I can live on my savings, but when we had 6 percent interest rates, we had 6 percent inflation. So they were really invading their principal in that the value of their principal was declining by 6 percent each year. Today, we have real interest rates of 2 percent, and it is a real interest rate.

So perhaps if we had financial literacy, people would understand that if you are getting a 5 percent or 6 percent nominal return at a time of 5 or 6 percent inflation, you are really earning nothing. You are invading your principal by seeing it decline in its purchasing power.

Speaking of financial literacy, I am all for it, Mr. Cordray, but I hope that you would write rules and industry would engage in practices that were fair enough and transparent enough so even people who had not yet benefited from your financial literacy would not be taken advantage of. I don’t want to see this financial literacy mantra be a replacement for fair disclosure and honest practices.

As to your building, if you can make it cheaper, if you can make a change, you will make us happy. You will never have a structure that will allow you to compete with the private law firms and their beautiful offices, but you will be able to recruit from those law firms or get good people because you are doing the Lord's work, not because you have a heavenly building.

Mr. CORDRAY. You are right that the advantage for us in recruiting is our mission. People want to come to work to protect consumers, and we are going to have a decent building.

Mr. SHERMAN. I understand. I want to quickly go on to a question here.

There has been significant dissatisfaction here in this room with the guidance that you provided about indirect auto leasing, particular concern about how you are basing this guidance on methodology that at least our chairman says he can't get explained, and sends letter after letter to you, Freedom of Information Act requests. Would you consider another study that would be based on methodology so convincing that you would be willing to share the methodology and the data with Congress?

Mr. CORDRAY. Again, it has been a source of, I think, some frustration to the committee, and to me, and to the Bureau, that we have been back and forth on different kinds of information about this. We think we are providing a lot of information, but people identify other information that they want. Partly as a result of that, we are going to put out a White Paper on the proxy methodology to try to address that very directly later this summer. We will continue to try to be responsive on this. The reality is the auto industry and the auto lenders, they know all about this because they are constantly having to monitor themselves the—

Mr. SHERMAN. If they know all about it, why don't you answer the chairman's question so he can know all about it?

Mr. CORDRAY. I think that we are on the same page. They have to fend off private lawsuits whether the CFPB ever existed or not. And they have had private lawsuits, and they have had to pay out and make changes, and they do the same analysis that we do, I believe. We have had lots of discussions with them. We will be glad to have more. It is an ongoing dialogue, and—

Mr. SHERMAN. I would hope that you would—it is my understanding that the Bureau is threatening enforcement actions for failure to comply with its interpretation of the law as set forth in an informal guidance, and I would hope that you replace that guidance with a real regulation that goes through the real process with a methodology that is open, that you are proud of.

And I would point out that as things exist now, your guidance may not only guide you, but it may also guide the courts. So something you put out that you say, well, this is just a press release, okay, a long press release, it may not guide us, somebody is using it in court, and millions of dollars are changing hands, and companies are changing their practices. This is an important area. Let us go back and do the full work.

Mr. CORDRAY. If people want to bring us thoughts about a rule, including people from the industry, we will certainly welcome any input and give it some careful consideration.

Mr. SHERMAN. And be willing to go through the administrative procedure process to draft a regulation?

Mr. CORDRAY. We are going to work through what the issues are and what can be done, but we are happy to hear from people, and we welcome that.

Mr. SHERMAN. And then finally, I want to say that we recently passed legislation that I cosponsored out of the Small Business Advisory Board. I look forward to that actually being done, whether the Senate passes the legislation or not, and I hope that you will include somebody from the title industry, as that plays such an important role in the real estate transactions—

Mr. CORDRAY. If there is anybody from the title industry you think hasn't been able to access us and meet with us and talk to us, I would be glad to hear about it. I think we are trying to be very accessible.

Mr. SHERMAN. Thank you.

Mr. MCHENRY [presiding]. The gentleman's time has expired.

We will now go to the vice chairman of our Oversight Subcommittee, Mr. Fitzpatrick of Pennsylvania.

Mr. FITZPATRICK. I thank the chairman, and I thank you, Mr. Cordray, for your time today.

I wanted to follow up on some of these questions having to do with the rulemaking of CFPB, and the White Papers that are issued, and ultimately the underlying methodologies that Mr. Sherman was talking about, but also the data.

Last week, Mr. Cordray, this committee passed out to the House Floor a bill that I sponsored called the Bureau Research Transparency Act. And we feel the bill is necessary because the CFPB portrays itself as being a "data-driven agency." However, over the past 2 years it has become clear that when the CFPB wishes to engage in a rulemaking in a particular area, it first releases a purportedly objective White Paper on the issue. Invariably, research papers conclude that regulations are necessary, press releases are issued, then the media is driven by the press release and then used to come back to try to create some momentum for the proposed rulemaking.

Many have picked up on this pattern at the CFPB. And it is difficult to prove that the CFPB's research is faulty because the Bureau often refuses to subject its work to peer review or to release its methodology or the underlying data.

By requiring the CFPB to release its work publicly, the bill that I have sponsored will allow interested parties the opportunity to review the Bureau's work, and ensure that its findings are supported by the data itself. So the bill, in my view, improves the rulemaking process by ensuring that its policy prescriptions are supported by objective and unbiased research.

I am not going to ask you to comment on a specific piece of legislation, but I would ask you just a couple of general questions. The first is, does anything prevent the CFPB from obtaining the data that you feel you need separately through the OMB approval and public comment requirements of the Paperwork Reduction Act?

Mr. CORDRAY. We have been complying with the Paperwork Reduction Act; that is part of the constraints upon our agency. And

we have worked with OMB for some collections, and then there are certain ones that are exempt from the Act, limited ones.

We also have the supervisory authority, which is a method of gathering information related to supervision of particular institutions. There is a variety of different sources there. And we have done voluntary collections from industry, where they, in many cases, have been responsive to us.

Mr. FITZPATRICK. So the bill, Mr. Cordray, simply says that the data must be available to the public. Your agency will have some discretion on how to implement the law, even by rulemaking; is that not correct?

Mr. CORDRAY. We will have some discretion, yes.

Mr. FITZPATRICK. I want to use the couple of minutes I have left to get into a separate issue. The O&I Subcommittee, we will be meeting later this afternoon. Pursuant to subpoena, a couple of the employees of the Bureau will be testifying.

Mr. CORDRAY. Yep.

Mr. FITZPATRICK. And, in your opening statements, I appreciate your concern about the process, about the allegations of discrimination within the agency.

So there are some who are coming forward today. There are others, employees of the Bureau, who are much more reluctant. They are concerned, I guess, about their futures within the Bureau. They have given some statements to the committee. And even though they are either unable or not willing or afraid to come forward, I do want to make sure that they have—all those employees do have a voice on this committee.

Mr. CORDRAY. I do, too. Yes.

Mr. FITZPATRICK. And I just want to read the statement of one of the employees who wanted to share her story:

“I am an employee at the Consumer Financial Protection Bureau, and I write to share my experience at the CFPB with you. I wish to remain anonymous due to fear of retaliation from the CFPB management.

“I am a minority employee on term status, and I joined the Bureau in the Office of Consumer Response. Sadly, though, since my appointment I have experienced discrimination by the Bureau at the hands of the very same managers who were the subject of the first hearing where Angela Martin testified. Unfortunately, my story is not unique, and I am one of many minority employees who have suffered discrimination at the CFPB.

“Like many of my colleagues, I believed that the CFPB was a meritocracy and that I could excel and obtain permanent status if I consistently did good work and improved process and procedures at the Bureau. However, I quickly learned that I was wrong. I suffered retaliation and discrimination by the CFPB managers whenever I questioned the status quo or when I suggested improvements in the way the Bureau handles consumer complaints.”

So I would just ask, Mr. Director, as you go forward to improve the process and protect the employees, consider that there are many employees who, for a variety of reasons, have been unwilling or incapable of coming forward, and I ask that you consider them, as well.

Mr. CORDRAY. I will. We are working to resolve individual grievances through the appropriate process. And for those who wish to remain anonymous, if there are ways for us to try to address the general problems that they are describing, we are interested in doing so.

Mr. FITZPATRICK. Thank you, sir.

Mr. MCHENRY. The gentleman's time has expired.

Mr. Scott of Georgia is now recognized for 5 minutes.

Mr. SCOTT. Thank you very much, Mr. Chairman.

Mr. Cordray, I think that you have been made aware of the committee, how interested we are in working with you in resolving the auto dealers issue. It has gone on way too long. The auto industry is in limbo, the dealers are. So we encourage you to resolve this issue.

I had spoken to you about that before and it is good to see that you are at least working through it. Sit down with them. Let's work this thing out, get it off the table, so they can go about their business and not be threatened with indirect lending.

Mr. CORDRAY. I do welcome the opportunity to spend time on this—

Mr. SCOTT. Sure.

Now, I want to ask your help on something else, because we are doing things out here, particularly for mortgages and helping people. Are you familiar with what we call the Hardest Hit Program?

Mr. CORDRAY. I am, yes.

Mr. SCOTT. Okay. Now, I want to ask you to help us in Georgia, because I have sort of taken the leadership in that. In August, we are putting together an event in which we will have an emphasis on that. And I would appreciate very much if you would make a call to Georgia's Department of Community Affairs—if you would do that and offer your assistance.

The issue is this: When we got this program, we got it for about \$6 billion for the hardest-hit 17 or 19 States in the Nation. Georgia's share of that was \$339 million. Here is the kicker: If we don't use that money within the next 29 months, it comes back to the Treasury.

We need your encouragement. This is money that is there. We got this because a number of us on this committee held up the Dodd-Frank bill because we said we can't just throw money up at Wall Street and think that is going to handle it without helping the struggling homeowners. And so, we got this money. And Georgia has spent maybe \$139 million of it, so we have \$200 million left down there. And if we don't get that out in the next 28 months, it comes back to the Treasury.

So in August, we are putting together an event. The Department of Community Affairs is the group that is handling it.

Now, you must understand this point, that my State sat on that money for a year and did nothing until we lit a fire under them. I am saying to you, spring into action with us. It is not going to hurt you to make a call down there. You are there to protect the consumers and to help them. Here these folks can get up to 24 months of loan forgiveness, of free home mortgage help.

Nowhere is that needed more than for our veterans. We have a defense policy now which is lessening our military impact in Iraq

and Afghanistan. Our soldiers are coming home, and they are the fastest-growing group of homeless people. This money can help them.

So in August, we are putting this event together, where we hope to get thousands of people, so that we can get this money out in the system in Georgia. A call from you, as the chief enforcer of consumer protection and help, to help let's get that money there. Would you do that for me?

Mr. CORDRAY. We—

Mr. SCOTT. Her name is Commissioner Gretchen.

Mr. CORDRAY. Yes.

Mr. SCOTT. They are working now, thanks to lighting the fire. The issue is, we only have 28 months to get \$200 million out to help struggling homeowners. And we are putting this event together.

Now, I have 50 seconds, so much. But will you do that? Can I get you to do that?

Mr. CORDRAY. We will be glad to work with you and your staff to see how—

Mr. SCOTT. No, no.

Mr. CORDRAY. —we can support that effort.

Mr. SCOTT. Can I get you—

Mr. CORDRAY. Yes.

Mr. SCOTT. —to make a call down there?

Mr. CORDRAY. Yes.

Mr. SCOTT. And, see, that is a part of the problem. I don't need you to work with me. I need you to make a call down there to Georgia and offer help for this event for Congressman Scott in Georgia to get this free mortgage assistance to struggling homeowners and especially our veterans.

The other point I wanted to ask is about my earlier comment about the student loans. As I said, in the Atlanta Business Chronicle, \$39 million, 1.2 million.

Mr. CORDRAY. Yes.

Mr. SCOTT. The President put forward a program last week to cap monthly payments. What say you about that? Are you familiar with it? Is it enough?

Quickly. I have 4 seconds left.

Mr. CORDRAY. Student loans are an enormous problem. We happen to have some great people at the Bureau working on them. We have been pushing for more refinancing options, and we are also pushing on the student loan servicers to do a better job, much better job, of actually servicing these loans and minimizing the pain.

Mr. SCOTT. Is what the President is putting forward—

Mr. MCHENRY. The gentleman's time has expired.

Mr. SCOTT. —sufficient?

Mr. MCHENRY. We will now go to the next—

Mr. CORDRAY. I don't know for sure, one way or the other. But it is the kind of thing that will create more activity in the area, which is needed.

Mr. SCOTT. Thank you, Mr. Chairman.

Mr. MCHENRY. The gentleman's time has expired.

We will now go to the vice chairman of our Housing and Insurance Subcommittee, Mr. Luetkemeyer of Missouri.

Mr. LUETKEMEYER. Thank you, Mr. Chairman.

Mr. Cordray, the last time you were here we discussed the situation with nondeposit lenders and Operation Choke Point. And at that time, I asked you for a letter indicating your support for individuals and businesses that were doing business in a legal fashion with a legal entity to not be impacted, and you would support them. I talked to you the other day. And you are working on a letter still, I take it, is that correct?

Mr. CORDRAY. I testified last week in front of the Senate Banking Committee on this issue and indicated that, as we view it, people who are operating legally should be fine, people who are operating illegally—

Mr. LUETKEMEYER. Right.

Mr. CORDRAY. —should not be fine.

Mr. LUETKEMEYER. Right.

Mr. CORDRAY. And that is the right divide here.

Mr. LUETKEMEYER. Right. We would just like a letter stating that policy. Is there a problem with that?

Mr. CORDRAY. Why don't you write to me, and then I will write back to you.

Mr. LUETKEMEYER. Okay. We can do that. We thank you.

Along those lines, we find that the FDIC and DOJ are working together in this Operation Choke Point and have taken a scorched-earth policy to trying to ferret out the bad actors. And while I do not support the bad actors, I fully support their efforts to find the bad actors in whatever entity, whatever industry there is, to do this in a way that harms the entire industry, in my judgment, is wrong.

And so my question to you then is, are you working with either one of these agencies, the FDIC or the DOJ? Are any of your people working with them with regards to Operation Choke Point or those activities surrounding that operation?

Mr. CORDRAY. I don't really know what the ambit of Operation Choke Point is. That is a Justice Department term. I believe that we work regularly with the other agencies on issues around "know your customer," which is a standard approach to bank supervision, where if someone is facilitating illegal conduct, they can be culpable, and they need to be very careful about that. The line I would draw is the same one you and I just discussed, which is, are you operating legally or are you operating illegally?

Mr. LUETKEMEYER. I would hope that you are working with them if somebody is operating illegally. But if they are operating legally, are you still in the loop here, are you still working with them to try and do the scorched-earth theory of getting at every single individual in an industry and choking their financial services off?

Mr. CORDRAY. I don't believe in a scorched-earth approach. Again—

Mr. LUETKEMEYER. Okay.

Mr. CORDRAY. —we need access to credit, and people who are operating legally should be operating legally. People who are operating illegally should be either operating legally, changing their ways, or going out of business. That is the right divide.

Mr. LUETKEMEYER. One of the things that I discussed with DOJ as well as the FDIC is that we need a safe harbor in place for the

banks to be able to continue to do business with entities that are legal entities and doing it in a legal way. And they refuse to do that, and, at some point, we are going to have to probably do some legislation.

Would you support legislation to provide a safe harbor for the banking industry to be able to continue to do business with legal entities doing business in a legal way?

Mr. CORDRAY. I am not quite sure what to make of that, because the problem is it is a factual matter, whether somebody is operating legally or illegally. I think the law already says that if you are operating legally, you have a safe harbor; if you are operating illegally, you have no safe harbor. The law is the law.

Mr. LUETKEMEYER. The problem, Mr. Director, is that, as you well know, there is intimidation going on here, there is bullying going on here by the FDIC, in particular, and by DOJ. They will go in and, by inference, say, "Hey, you shouldn't be doing business with these particular people," but refuse to put it in writing. So, therefore, by refusing to put it in writing, they are bullying the bankers into no longer being able to provide financial services to an entire industry of people.

That is going on with not just nondeposit lenders, but they are also doing it with gun manufacturers, ammunition manufacturers, and people who sell guns and ammunition. It is documented. Even the papers have this information out now. But we see it—

Mr. CORDRAY. I don't know if that is so at the FDIC. I really don't know if that is so.

Mr. LUETKEMEYER. I have talked with—

Mr. CORDRAY. I have read press accounts about Operation Choke Point and I am not clear on what the ambit of that is.

Mr. LUETKEMEYER. It has gone beyond just nondeposit lenders. And the FDIC admits that they are doing this. So we have documented evidence by some of the stories related in the press, if the press is doing their business at all, that would be the case.

So my concern is, are you willing to help us provide a safe harbor for those banks and stop this intimidation, this bullying, that is going on with the FDIC and DOJ by putting in place a safe harbor? Would you support something like that?

Mr. CORDRAY. If people are operating legally, they have a safe harbor by law. If they are operating illegally, they are not. The difficulty often is knowing which they are doing, and you have to dig in and really understand the facts and circumstances to know that. But, I don't think you and I are far off from each other.

Mr. LUETKEMEYER. I don't think we are, but I would like for you to say "yes." I think you agree that a safe harbor is necessary, but you won't do it, Director.

Mr. CORDRAY. I am not sure what to make of that. Honestly, I am not. Sorry. I just—

Mr. LUETKEMEYER. Okay. I appreciate your comments this morning. And I am running out of time, so I will stop right there.

Thank you, Mr. Chairman.

Mr. MCHENRY. All right. I thank the gentleman for yielding back.

We will now go to the ranking member of our Oversight Subcommittee, Mr. Green of Texas.

Mr. GREEN. Thank you, Mr. Chairman.

Mr. Chairman, we have reached a point in time where we have to take the axe of truth and slam it into the tree of circumstance and let the chips fall where they may.

And the truth is, Mr. Cordray, that if you eliminated the work on the building, the renovation process today, it would not end the argument, the opposition to the CFPB, the Consumer Financial Protection Bureau. It wouldn't end it, because the building project is not an end. It is a means to an end. And the end that persons are seeking, not all but some, is to place the CFPB under the appropriations process.

Then you would find yourself in the same position as the SEC: budget cut, underfunded, understaffed, overburdened, still got 300 million people to protect but you are under the process that allows Congress to cut your budget, manipulate your budget, to the extent that you won't be efficacious.

The truth is we spent \$621 million on a visitors center, a congressional visitors center. It cost \$621 million.

Mr. CORDRAY. Wow.

Mr. GREEN. That is a lot of money for visitors.

Mr. CORDRAY. Yes.

Mr. GREEN. I welcome visitors to the Capitol. I think the argument can be made that you don't need a \$621-million visitors center. But that is just an argument.

The truth is, if you become a part of the appropriations process, you will not be able to do many of these things that I have evidence of your being able to do. You won't be able to supervise bank and nonbank mortgage companies. You won't be able to produce new protections against irresponsible mortgage lending. You won't be able to produce new protections for homeowners facing foreclosure. You won't be able to produce a "Know Before You Owe" mortgage disclosure program. You won't be able to stop mortgage servicing misconduct. You won't be able to take action against real estate kickbacks. And, in my State, you just took action against a builder, who had to surrender more than \$100,000 received in a real estate kickback scam.

You will become ineffective if the CFPB is placed under the appropriations process. This is why the design of the CFPB is such that you are under another funding source, so that you can have some independence, so that you can take some actions that many in this country who are big and powerful would find unacceptable.

This is about helping people who were scammed with loans that were a part of the 2008 crisis—the 327s, the 228s, the negative amortization, the no-doc loans. All of these things could have been dealt with had we a Consumer Financial Protection Bureau.

The truth is, it took 66 years to get rid of Glass-Steagall—66 years—but they did it. They emasculated Glass-Steagall. This is why we have a Volcker Rule today, because Glass-Steagall was emasculated. It took 66 years, but I say to you, Mr. Cordray, on my watch, I am going to do all that I can to protect the Consumer Financial Protection Bureau.

I don't like the allegations of invidious discrimination, and I think they have to be dealt with. And I plan to work with the chairman of the Oversight and Investigations Subcommittee to

make sure we deal with these allegations, not only at the CFPB but also at the banks. Many of these banks have similar circumstances that are not being aired. And I think we have to go straight to the heart of the matter and deal with it across the length and breadth of all of the agencies that come under our purview.

So I am concerned about this, but I am not going to limit my concern to the CFPB to the extent that it appears that this agency is ineffective and ought to be eliminated or emasculated. Not on my watch.

I yield back the balance of my time.

Mr. MCHENRY. I appreciate that. I thank the gentleman for his promptness.

I will now recognize myself for 5 minutes.

Yesterday, in Politico and the Washington Examiner, it was noted that Ms. Angela Martin, who testified before my subcommittee in April, a CFPB whistleblower—are you familiar with Ms. Martin, Mr. Cordray?

Mr. CORDRAY. Yes.

Mr. MCHENRY. Okay.

And, as I remember, back in April you issued a new equal employment opportunity policy saying that you had zero tolerance for workplace discrimination and retaliation.

It was noted in that article that Angela Martin received a financial settlement, that her claim has been settled.

My question to you, sir, is: The person who was—have you actually taken any disciplinary action against Scott Pluta for retaliating against Ms. Angela Martin?

Mr. CORDRAY. We have now resolved claims involving Ms. Martin on two separate occasions. The first time was in August of 2013. There were some difficulties, as I understand it, in implementing—

Mr. MCHENRY. I am not asking about the claims. I am asking whether or not someone who continues to be in your employ, Mr. Scott Pluta, whom the allegations were levied against, if he has been held accountable for his actions.

Mr. CORDRAY. I do not have a basis for disciplining Mr. Pluta.

Mr. MCHENRY. So you have not fired somebody who has been proven to be—based off the financial terms of the settlement, it is clear to me that there was truth in this, if you are going to make such a financial settlement with an employee.

And, likewise, if you are going to issue taxpayer funds to someone to settle a discrimination and retaliation claim, yet on the other side of the ledger not hold someone accountable, it seems irresponsible to me. How would you see it differently?

Mr. CORDRAY. You said things have been proven. They have not been proven. And—

Mr. MCHENRY. So you gave her—

Mr. CORDRAY. —the investigation is ongoing.

Mr. MCHENRY. —Federal money, you gave her taxpayer money, on a frivolous claim?

Mr. CORDRAY. No, it was not—I don't know that it was a frivolous claim. It hasn't been proven, okay?

Mr. MCHENRY. It has not been proven. Have you done an investigation about whether or not it has been proven?

Mr. CORDRAY. As you know, we began doing an investigation. That—

Mr. MCHENRY. When?

Mr. CORDRAY. —investigation proved to be defective, which was done by the investigator you heard from in front of your subcommittee.

Mr. MCHENRY. Yes.

Mr. CORDRAY. We are now reopening that investigation and working through it. But I don't want to—

Mr. MCHENRY. You are reopening it?

Mr. CORDRAY. —get into the details of—

Mr. MCHENRY. I'm sorry. You are reopening that investigation?

Mr. CORDRAY. It is an ongoing investigation—

Mr. MCHENRY. When did you reopen that investigation?

Mr. CORDRAY. Recently—

Mr. MCHENRY. Okay.

Mr. CORDRAY. —when we—

Mr. MCHENRY. Because the Defense Investigators Group gave you the report, I think 6 or 7 months ago, if my recollection is correct. Did you start your internal investigation on the investigation after that or just when we got the letter yesterday?

Mr. CORDRAY. You know and you have the letter from me that states—

Mr. MCHENRY. We got it last night, yes.

Mr. CORDRAY. —that investigation was not according to the statement of work. It was deficient. The company has acknowledged it. We have to—

Mr. MCHENRY. They have not acknowledged it.

Mr. CORDRAY. —now redo it again.

Mr. MCHENRY. That is not the testimony we heard, Mr. Cordray. In fact, the testimony we heard was that, for the reasons you outline in the letter, that she didn't have sworn testimony and signed transcripts, that was a decision that the Bureau gave her because they didn't want to pay for her travel to D.C. to get signatures. So your claims that it is deficient are very dubious at best.

I want to go to—

Mr. CORDRAY. I don't agree with—

Mr. MCHENRY. —a separate report, because you can debate one investigative firm.

Mr. CORDRAY. Yes.

Mr. MCHENRY. Revered consulting firm Deloitte was hired by OMWI, the Office of Minority and Women Inclusion. The report is rather damning: six areas of enormous deficiency within the Bureau dealing with racial disparities, and disparities against women as well.

Yet I read that you have promoted Stuart Ishimaru, who ran that office, after this report was received. It seems perplexing to me that the person who receives a damning grade from a revered consulting firm would receive a promotion.

How does that work in your department? If you are taking these claims and if you are taking these reports of discrimination and retaliation seriously, how can I see that you are taking real action?

Mr. CORDRAY. You are misstating the actual events. All right? That report was commissioned by Mr. Ishimaru as an attempt to

get a baseline so that he could develop a strategic plan for the OMWI office. All right? That was the purpose of the report.

Mr. MCHENRY. Right.

Mr. CORDRAY. It was generated for that reason, and—

Mr. MCHENRY. And it was delivered in September of last year.

Mr. CORDRAY. End of September last year, that is correct.

Mr. MCHENRY. And nothing further occurred until the March 6th American Banker article—

Mr. CORDRAY. No, that is not true.

Mr. MCHENRY. —was published. Well, that is what—

Mr. CORDRAY. That is not correct.

Mr. MCHENRY. —the union testified to, that there was no—

Mr. CORDRAY. No, not correct.

Mr. MCHENRY. —action against—

Mr. CORDRAY. The union is not necessarily privy to everything that is going on in the agency.

Mr. MCHENRY. Who is not?

Mr. CORDRAY. So let me—

Mr. MCHENRY. Who is not? Who is not privy to—

Mr. CORDRAY. The union members don't necessarily know everything—

Mr. MCHENRY. That is the leaders.

Mr. CORDRAY. —that I know as the Director.

They were engaging in negotiations, which they have done. Those have been fruitful. They have dealt with the performance review system thoroughly. It has now been discarded. We have gone back and corrected the effects for employees.

The report was received at the end of September. It was an internal OMWI report. It was then raised to the level of executive leadership in early November, so pretty short order. We immediately began looking at the issues around the performance review system because I was concerned about them. And that led to union negotiations of resolution in a matter of a few months. That is very fast.

We didn't put this into a legal process and try to defend it and—

Mr. MCHENRY. Okay.

Mr. CORDRAY. —resist it for years.

Mr. MCHENRY. My time has expired.

Mr. CORDRAY. We resolved it. And—

Mr. MCHENRY. My time has expired—

Mr. CORDRAY. —that was appropriate.

Mr. MCHENRY. —and other Members—

Mr. CORDRAY. Okay.

Mr. MCHENRY. We will now go to Mr. Carney of Delaware for 5 minutes.

Mr. CARNEY. Thank you very much, Mr. Chairman.

And thank you, Director Cordray, for coming in again to answer questions before this committee. I appreciate what you are doing, and I appreciate your personal responsiveness to me and my office and staff when we have questions and concerns.

And thank you for this summary of the activities that you have done over the last year. I would just like to highlight a few: you have ordered \$3.8 billion to be returned back to the pockets of more than 12.6 million consumers; you have collected over \$141 million in civil penalties from the companies that harm consumers; you

have handled approximately 354,000 consumer complaints; you have issued new mortgage rules; you have launched new tools, such as Paying for College, Ask CFPB, and debt collection action letters that help consumers navigate critical financial decisions.

You have done a lot on financial literacy. You have heard that is an issue that we all are concerned about, creating tools and providing resources to the people that you serve. You have created the “Know Before You Owe,” which I think is really important. This is hard stuff for people. It is hard stuff for those of our constituents who are highly educated, and it is even harder for people who aren’t and don’t have a lot of access to these resources.

So thank you so much for what you and the agency are doing.

I would be remiss if I didn’t say that I am concerned, as well, about the complaints of racial discrimination. Very troubling. And I take you at your word that you will get to the bottom of this.

Mr. CORDRAY. Yes.

Mr. CARNEY. These things just can’t happen. And I appreciate that.

I am going to take you up on your offer for us to come over and visit. I am dying to see this fountain and the landscaping around which so much has been made.

I would like to go back to—

Mr. CORDRAY. Maybe we will run a shuttle bus for you and your colleagues.

Mr. CARNEY. Thank you. Maybe I could do that, lead that effort.

I would like to go back to something that Mr. Meeks said about the QM rule. And I did read the American Banker article. What I drew from the article was that it wasn’t having an impact because of the exemptions given to Fannie and Freddie.

And in your response to Mr. Meeks, you said that the rule has latitude and flexibility depending on what Congress might do.

Mr. CORDRAY. Right.

Mr. CARNEY. I am a cosponsor with Mr. Delaney and Mr. Himes of legislation that we plan to introduce that would replace Fannie Mae and Freddie Mac with the functions that would come under Ginnie Mae.

Suppose that would happen; how would the regulations apply? And how is that latitude and flexibility, how do you see that happening?

Mr. CORDRAY. I think at the time we passed the mortgage rules, one of the big difficulties—there were a number of difficulties—was uncertainty about GSE reform. If and when that issue is resolved by the Congress, I imagine anything that might be done would be staged in over a period of time, rather than some precipitous change.

Mr. CARNEY. That is what our bill—

Mr. CORDRAY. And it would be absolutely essential for us to then revisit our rules in light of that and probably work with the Congress to understand how all of this should dovetail going forward. And that is absolutely what would be needed at that time.

Mr. CARNEY. So that is something that you will commit to doing—

Mr. CORDRAY. Yes.

Mr. CARNEY. —depending on what happens?

Mr. CORDRAY. Absolutely.

Mr. CARNEY. And we obviously don't know what is going to happen.

Mr. CORDRAY. That is right.

Mr. CARNEY. There is a different approach in the Senate. Actually, this committee has voted the PATH Act out, which would—

Mr. CORDRAY. That is right.

Mr. CARNEY. —completely eliminate any Federal guarantee there. We don't think that is the right way to go, and—

Mr. CORDRAY. Yes.

Mr. CARNEY. —we have an alternative to that.

Mr. CORDRAY. We didn't know then. We don't know now. We tried to build in flexibility, and I think it reflects a sensible approach to those rules that we did that.

Mr. CARNEY. You and I have talked about student loan debt before and all of that, and I have expressed my concerns to you. I have asked, kind of, for your advice as a professional, as a smart guy, not so much as the head of the CFPB.

And you have been reluctant to share your own views on what we should do. Somebody asked you, a minute ago, about the legislation that passed in the Senate that would enable students to pay a percentage of their income, and you kind of deflected that.

Do you have any thoughts, any further thoughts, based on your more recent experience with what you are seeing out there in the marketplace?

I notice you say that the student debt can have a domino effect on the rest of the economy, and we have had some discussion about that.

Mr. CORDRAY. Yes. So, look, in my capacity just as an informed public official, not on behalf of the Bureau—

Mr. CARNEY. And a parent.

Mr. CORDRAY. I am very concerned as a parent, yes, and as a citizen about the fact that tuition costs continue to spiral in ways that are unbelievably dramatic around the country. I saw figures recently that the cost of tuition at our higher institutions went up, it was—I don't have the exact numbers, but it was something like 580 percent over a period of time where inflation—

Mr. CARNEY. 600 percent.

Mr. CORDRAY. —and even things like housing costs and other things went up at a much lower pace.

Mr. CARNEY. Twice healthcare costs.

Mr. CORDRAY. And this is an example of something that goes well beyond the Consumer Bureau. We end up with the back end, holding the bag on this problem. People have all these costs. We got to it at the State and local level. And the institutions themselves have to think hard about the costs they are imposing on the American public, and they have to get to be more efficient.

Mr. MCHENRY. The gentleman's time has expired.

Mr. CARNEY. Thank you.

Mr. MCHENRY. We will now go to Mr. Huizenga of Michigan for 5 minutes.

Mr. HUIZENGA. Thank you, Mr. Chairman.

And, Director Cordray, I appreciate you being here.

I know this is tough, coming up here. You feel badgered, feel beat up. I am going to try not to do that.

Mr. CORDRAY. It is part of my job.

Mr. HUIZENGA. I know it is part of your job, but I am going to try not to do that. I actually have some serious questions, though.

On January 28th, we had a hearing where you testified and I had submitted a question with a series—four different points, sub-points, kind of, under it. We received the answers yesterday. That is 6 months, well, to be fair, 5½ months. Is that an acceptable timeframe to be getting back to an oversight committee like we are with some pretty basic questions?

Mr. CORDRAY. It is not the timeframe I would like, but if I had a set of questions from you and I was responding to you, that would be one thing. We have had quite a few follow-ups and document requests and emails and other things from this committee, which is fine, that is the committee's job, but it has been a burdensome load for us. We are trying to get back as timely as possible. Some things we can get back more quickly, some things more slowly. I will say, it is always true that a committee hearing like this concentrates the mind and causes us to get some things done because we know that it is time—

Mr. HUIZENGA. Okay.

Mr. CORDRAY. —to do so. But—

Mr. HUIZENGA. Well, I have a—

Mr. CORDRAY. —we have been under tremendous strain to accomplish all of it.

Mr. HUIZENGA. —couple of other questions regarding QM. One of them is a repeat of the question from January, and this was from our hearing with Meredith Fuchs on April 8th.

Mr. CORDRAY. Yes.

Mr. HUIZENGA. Any idea when those might be coming back?

Mr. CORDRAY. Sorry, so what is the question?

Mr. HUIZENGA. So I am just—a set of four simple questions.

Mr. CORDRAY. Yes.

Mr. HUIZENGA. Some of them are slightly modified from earlier answers, where basically—the answers you gave us from yesterday were, “Well, we are monitoring the situation.” So do I have to wait another 6 months to get the answers for this set, or, hopefully, will that be quicker?

Mr. CORDRAY. I'm sorry. So you are putting out a set today, a new set? Or—

Mr. HUIZENGA. No. This is from—these were submitted to you on April 8th.

Mr. CORDRAY. Okay.

Mr. HUIZENGA. So I am just—how about we work better than 5½ months? Can we agree to that?

Mr. CORDRAY. We will absolutely do our best.

Mr. HUIZENGA. Okay.

Mr. CORDRAY. Yes.

Mr. HUIZENGA. Perfect.

Openness and transparency. It seems to me that the goal—I wasn't here for the creation of Dodd-Frank. I am dealing with the echo effects of it. It seems to me that it was to ensure systems were more transparent and easier for consumers. Is that happening?

Mr. CORDRAY. I think it is in some areas. We are working to make it happen in some areas. I actually do think that the tenor of the market has moved in some considerable way in that direction, with a lot more work yet to do.

Mr. HUIZENGA. I would agree with that. There is the a-lot-more-work part. The disclosures that I see now, when we all get our credit cards or our bank card statements, certainly are not easier. They are more confusing, I think, to the people in the general public. It is frustrating for those who are running the operations; it is frustrating for those of us receiving it. And I am afraid that is bleeding out into other areas, including our QM situation, which was some of my questioning from back in January and part of my question.

So, I will give you a preview. Or, actually, this was from April 8th, so I will do a vocal follow-up here, I guess, on dealing with the QM rules.

A recommendation had been to increase the threshold of "small loans" from \$100,000 to \$200,000. The answer you gave to me from that question back in January was, "Well, it could have been worse. It was \$75,000. We increased it up to \$100,000."

One, do you have the legal authority to increase the amount? And if so, why haven't you increased the threshold? That is one of the questions that I have.

The other one—and I am very concerned about this—is that "QM" is quickly become known as "quitting mortgages." When you talk to small lenders especially, they are trying to enter into this and do the right thing. They are not the people who caused any of this housing bubble, for the most part. They are not the people who have these nameless, faceless relationships. These are the people who are meeting their customers day to day. I was a REALTOR® for a number of years. I dealt with that.

But how do we reconcile this one-size-fits-all approach taken by CFPB promulgating these QM rules and to promote consumer choice and facilitate access to that marketplace when it doesn't seem to be happening?

Mr. CORDRAY. I actually agree with you on this about the smaller lenders. And we actually did not take a one-size-fits-all approach. We had a special small-creditor provision for any institution with less than \$2 billion in assets and makes 500 or fewer mortgages a year. Everything they do, whether it is sold to Fannie or Freddie or it is kept in portfolio, is a QM with a safe harbor.

And I have had—

Mr. HUIZENGA. Two billion dollars is a pretty low threshold, though.

Mr. CORDRAY. —conversations with dozens of smaller creditors who say this, "Well, we are going to have to get out of the mortgage market," and when I talk it through with them, it is clear that they didn't understand that part of the rule, and we are trying to get the word out to them. I know the trade associations need to work harder at getting the word out to them.

But it wasn't one-size-fits-all. There are special provisions for the small creditors. And we are happy to consider more.

Mr. MCHENRY. The gentleman's time has expired.

Mr. HUIZENGA. I appreciate it. Thank you.

Mr. MCHENRY. We have an announcement of House Floor votes. I am respectful of your time. I am also respectful of heads of the CFPB, their packed schedules. And so, being aware of this—

Mr. CORDRAY. I am available.

Mr. MCHENRY. —if we could have Members' indulgence on time, we will now go to Mr. Ellison—I'm sorry, Mr. Heck of Washington, the other Washington.

Mr. HECK. Thank you, Mr. Chairman.

Director Cordray, thank you very much for being here. I never want to miss an opportunity to thank you for your public service and that of your agency and, in particular, that of the Office of Servicemember Affairs. As somebody who represents Joint Base Lewis-McChord, it is deeply appreciated.

Mr. CORDRAY. Yes.

Mr. HECK. Although I will add, in actually reading your report, I note that the office made 77 outreach visits in the 6-month period ending March 31st and none of them were near the largest joint operating base in America.

Mr. CORDRAY. She is in great demand. You put in a request, and we will see what we can do.

Mr. HECK. I would like to follow up on something Mr. Royce asked you. And I was very pleased to hear you say that you were exploring ways in which the agency might be able to issue advisory opinions.

I want to make sure that you know that, while that bill came out on a partisan, divided vote, there are lots of Members on this side of the aisle who think that is not just a good idea; they think it is a very good idea. And, as a matter of fact, I would suspect, as a former attorney general, that your agency probably issued something that in our State, we call attorney general's opinions—

Mr. CORDRAY. Yes.

Mr. HECK. —and even letters that—

Mr. CORDRAY. About 100 a year. Yes.

Mr. HECK. This is a good, smart business practice that is win-win.

Our sensitivity to your concerns about how the bill, as worded now, might not work—

Mr. CORDRAY. Yes.

Mr. HECK. —is something we want to take into account. So I would like you to enumerate, what are the kinds of changes in that legislation that would enable you to implement it in a good fashion?

And please hear me. We think the idea behind this bill is excellent.

Mr. CORDRAY. I am not at all certain that legislation is needed in this area. I don't think anything prevents us from issuing responses. We do it all the time. In fact, people ask us questions about our mortgage rules, and we put out guidance and various things, both verbally and in writing. We do that all the time.

But it is sort of a formal procedure for particular instances where people could have some assurance around what the answer is. Again, I think we can do that. I think we are doing that in various respects. I think we could do it in more respects.

There are things in the legislation—I am not that familiar with the legislation—but mandatory timeframes and everything has to be answered. All of that could potentially really impede other work of the Bureau.

I was attorney general in Ohio, as you say, and we did have a mechanism under State law for advisory opinions in appropriate circumstances from designated people who could ask us those questions, and at times, it was quite helpful.

Mr. HECK. I heard you say you don't need legislation to do this. Are you hereby now publicly committing that you will pursue the development of an advisory opinion process at the agency?

Mr. CORDRAY. Again, we are actually doing this all the time in a somewhat more informal way. People ask us all the time about clarifying—

Mr. HECK. Would you commit to doing it in a more formal way?

Mr. CORDRAY. I think you can expect to see more from us in this area, yes.

Mr. HECK. So, someone asked, and I do not recall who, about the Military Lending Act. I want to remind you that when you were here in January, I asked you, given the tardiness of the Department of Defense's issuance of regulations, maybe it was time to actually place the responsibility for rulemaking with the agency that has the most expertise in this regard. Frankly, that is you.

Here we are, 6 months later, no rule. And you demurred under very appropriate diplomatic terminology, but, Director Cordray, it is time. I realize getting it right should come before getting it done now, but is it not time for us to call for this responsibility to be placed with the agency that actually has the deepest expertise on how to go about this?

Mr. CORDRAY. I think that is actually what Congress did in the Dodd-Frank Act. And then later, when they reopened the Military Lending Act at the end of 2012, they gave the authority to the Department of Defense, but they urged them to work with the other agencies and explicitly said that they should consult with the CFPB.

We have worked with them. It has been a very fruitful partnership—

Mr. HECK. It is not fruitful in the sense of having the regulations.

Mr. CORDRAY. No, it actually is. There is pretty much a final version of a regulation, is my understanding. It has been working its way through the Department of Defense, and soon will be on its way to the Office of Management and Budget, which is a required step they have to take, and very shortly thereafter will be proposed publicly. And I think you will see it is going to be a good rule. And the Department of Defense has worked hard on this. They have many other things to do, I think we are well aware. I think people should continue to express interest in this, and that will be helpful. But I think things have moved along quite a bit, and I think we are on the verge of something going out—

Mr. MCHENRY. The gentleman's time has expired.

We will now go to the vice chairman of our Financial Institutions Subcommittee, Mr. Duffy of Wisconsin.

Mr. DUFFY. Thank you, Mr. Chairman.

Mr. Cordray, the National Mortgage Database, invasive, but, per your testimony today, I think you are telling us it is a pretty good database that is going to help you with good information to make rules. Yes?

Mr. CORDRAY. That is the intention. Yes.

Mr. DUFFY. Okay. And that database, per your testimony, is a database that samples information, 5 percent, per your testimony.

Mr. CORDRAY. That is correct.

Mr. DUFFY. I would just like to bring up my point in our prior conversations, that I have asked you to actually sample data with regard to credit card information.

Mr. CORDRAY. Yes.

Mr. DUFFY. You could get similar good data instead of taking nearly a billion credit cards and sampling—actually, collecting data off those credit cards. I think you have made the point with the National Mortgage Database, and you should then apply that to the credit cards. Fair point?

Mr. CORDRAY. I understand that. And what I want you to know is we are listening, we are hearing, and where we can do sampling and that will be sufficient, that is fine. Where we ask about the data and they say it is just easier for us to send you all of it rather than us having to cut out a sample and it may not be—

Mr. DUFFY. Well, don't ask for it all. Just ask for 5 percent. I am sure you—

Mr. CORDRAY. Yes.

Mr. DUFFY. —could make the same argument, too, with the National Mortgage Database; it is just easier to give it all. Listen—

Mr. CORDRAY. Yes. We will go back and continue to think further about that.

Mr. DUFFY. I would appreciate that.

Now, I think your testimony was also—you indicated that you don't care about information personal to me. I think that was your quote. Is that correct?

Mr. CORDRAY. I really don't care about your—

Mr. DUFFY. I am going to tell you something.

Mr. CORDRAY. —particular spending habits and the like.

Mr. DUFFY. Why don't—

Mr. CORDRAY. Although I understand you have a new arrival, so you probably have some—

Mr. DUFFY. I do.

Mr. CORDRAY. —economic burdens.

Mr. DUFFY. That is what I was going to bring up. I do care—

Mr. CORDRAY. Yes.

Mr. DUFFY. —that you know the number of children I have and the ages of my children. I care about that. That is personal to me.

Mr. CORDRAY. I don't have that.

Mr. DUFFY. Also personal to me are my religion, my phone number, my race, and my education. My education records are personal to me.

Mr. CORDRAY. Yes.

Mr. DUFFY. And here you have indicated to all of us that you are going to collect it.

Now, I want to ask you about that collection, because on December 10, 2012, a SORN notice went out about this new mortgage database.

Mr. CORDRAY. Yes.

Mr. DUFFY. And it was pretty straightforward, and it didn't get much of a rise out of Congress. Basically, you were going to collect loan level information. But you have now reissued it and greatly expanded the information that is going to be collected. And that has been a topic of many people here today, and I think it has a lot of concern for not just Members of Congress but for America as a whole.

Is it your testimony that you are only collecting religious affiliation or numbers of children and ages but then parsing it out and it doesn't go into the database? Is that your testimony?

Mr. CORDRAY. We are not doing it. A credit reporting agency that actually handles that kind of information all the time is doing it so that my employees will only see de-identified information. That is the effort here. And the same is true of the FHFA.

Mr. DUFFY. So I want to—

Mr. CORDRAY. We think it is responsible.

Mr. DUFFY. —talk about your notice, then.

Mr. CORDRAY. Yes.

Mr. DUFFY. Because the notice says, "The revised system of records notice is set out in its entirety and described in detail below. The revisions expand the category of records that will be collected, maintained, and stored in the system as well as make 'minor' changes and clarifications."

So you don't tell us, I am going to just collect all these data points that concern us. You tell us here that you are going to collect it, maintain it, and store it.

And, Mr. Cordray, you have been here 5 times. You are a smart man, very smart, and you have a lot of smart people who work for you. When you put these out, you know exactly what you are doing. And you didn't specify, we are going to collect all of this information that concerns us but we are only going to store a certain portion of that which was collected. You didn't specify it here. You are collecting, maintaining, and storing, per your notice.

Mr. CORDRAY. So, again, the point of the SORNs, they are typically written very broadly—

Mr. DUFFY. That is not—I am not going to go into your—

Mr. CORDRAY. —so that—

Mr. DUFFY. We are not going to talk about—

Mr. CORDRAY. —they—

Mr. DUFFY. I just want an answer—

Mr. CORDRAY. But I can tell you—

Mr. DUFFY. —why you wrote it that way.

Mr. CORDRAY. —what we are doing about the database. I think it is in line with what—

Mr. DUFFY. I want to ask you one more question.

Mr. CORDRAY. —you expect. And we are happy to keep you posted on it.

Mr. DUFFY. You are giving me the color of a song—

Mr. CORDRAY. Okay.

Mr. DUFFY. —to quote—

Mr. CORDRAY. I am trying to help you.

Mr. DUFFY. —your prior testimony.

Mr. CORDRAY. Yes.

Mr. DUFFY. I introduced a bill that would require you to ask for permission from Americans before you collect their information. I imagine you don't support that bill.

Mr. CORDRAY. It just wouldn't be workable.

Mr. DUFFY. Let me ask you a question. Would you support a bill that would say something like this: You can collect the consumer's personal information only with their consent and notify consumers regarding their collection and use of personal information, including purpose, method, and scope of use. Would you support that bill?

Mr. CORDRAY. So, we are not going to use that personally—

Mr. DUFFY. Would you support a bill like that?

Mr. CORDRAY. —identifiable information—

Mr. DUFFY. Would you support a bill like that?

Mr. CORDRAY. It would render—

Mr. DUFFY. Would you—

Mr. CORDRAY. It would render—

Mr. DUFFY. Come on, Mr. Cordray, just answer my question. Would you support a bill like that?

Mr. CORDRAY. I don't typically take positions on legislation, but that would make it unworkable for us to have data. We would be blind to the mortgage market—

Mr. DUFFY. I am going to give you a little notice here.

Mr. CORDRAY. —and the mortgage crisis and all that.

Mr. DUFFY. This law exists. It exists. Do you know where? Communist China.

I yield back.

Mr. MCHENRY. The gentleman's time has expired. Strong note.

Mr. ELLISON of Minnesota is now recognized for 5 minutes.

Mr. ELLISON. Let me thank the Chair and the ranking member.

And Mr. Cordray, thanks for being here today.

I just want to note for the record that the CFPB is investigating more than 354,000 consumer complaints. I have a picture up on the screen of the breakdown of the complaints that you get. You are getting complaints about payday loans, money transfers, student loans, consumer loans, and credit cards.

Does the volume of complaints that you get assure you that, without regard to what anybody else might say, the American people feel that your agency is important and is there to help them?

Mr. CORDRAY. And I actually think many more American people would want to bring complaints to us but don't yet know to do that. Yes, I do.

Mr. ELLISON. Yes.

So, also, I am kind of concerned about the market for buyers of manufactured homes. I requested information from the Manufactured Housing Institute about their largest lenders and their loan data, and they recommended that I get the information on their industry from the CFPB.

Now, what has been the CFPB's approach to assessing potential concerns about these borrowers' financing options?

Mr. CORDRAY. Frankly, I would be happy to have you get it from them and then share it with us. We have been trying to get infor-

mation, and we would like to have more. This is an issue that came up in this committee the last time I was here. There is a lot of interest in it. We have interest in it, as well. We are trying to understand that market.

I will say—and Mr. Chairman and others may be interested; I know you will, too—we are working on a White Paper on manufactured housing that we want to put out hopefully toward the end of summer that will bring you up to date on what we know about it. And if there are issues or problems in this industry, we want to consider and potentially address them.

I will say, some of the concerns that have been stated don't necessarily jibe with some of the data. We saw that the division of Berkshire Hathaway that focuses on manufactured homes, their profit was up 60 percent this first quarter over a year ago. It is not at all clear that manufactured housing is lagging in any particular way. But that is the kind of data we need to understand in order to assess whether there is a problem; if so, what the problem is; and what could or should be done about it.

Mr. ELLISON. There is a bill in front of the Congress now called the Preserving Access to Manufactured Housing Act. It is presented as a bill—it is H.R. 1779—that is designed to help occupants of manufactured housing, the idea being that people aren't lending to this market, and that if we allowed lenders to assess higher interest rates on these people, it would attract them to the market.

Do you have any views on this particular piece of legislation you are in a position to share today?

Mr. CORDRAY. This is the same as with all aspects of the mortgage market since the rules took effect. We are interested in people bringing us data.

Mr. ELLISON. Right.

Mr. CORDRAY. If, in fact, they aren't lending, if that is true, we would like to know the facts on that. We want to also know why that is so and want to think about whether something could be done about it.

We are interested in data here. We would like to have data. Industry has data, and if they would share it with us, that would help us all see the picture more clearly, and then we could talk and consider together. And we are very accessible to them, but we need data.

This White Paper we are going to put out will help a little bit, I think, to clarify the situation. And maybe that will prompt people to think more specifically about other things they can bring us and show us.

Mr. ELLISON. Thank you, sir.

My last question—and then I am going to yield back after you answer—is, what can you tell us about the CFPB and their activities to ensure auto buyers are not overcharged due to their ethnicity or protected factors like race?

Mr. CORDRAY. So what I can say is we worked with the Justice Department and resolved a very significant auto-lending discrimination matter in December—\$98 million, a significant remediation to consumers.

We continue to work on the problem and try to understand it. And we are interested in working with industry so that they can understand how we might be able to approach this and resolve it on a broader basis. And there was suggestion earlier that people might be willing to come to us and talk to us about a rule. We are open-minded and welcome all discussions. And, although we have been very careful about not reaching out aggressively to dealers, because they are not within our jurisdiction and Congress specified that and we need to be respectful of that, as they have been wanting to come to talk to us, we have been trying to open the door to that and see how we can understand their concerns, as well, again, trying to respect very carefully our jurisdiction and not overstep our bounds.

Mr. ELLISON. I just want to say briefly, please rout out discrimination in your agency and any other agency. Rout it out, because it gives you the moral authority to protect these buyers, who are—

Mr. CORDRAY. I hear you loud and clear on that, sir. Yes.

Ms. WATERS. Will the gentleman yield?

Mr. ELLISON. I will.

Ms. WATERS. Thank you for raising the question about manufactured housing. And I think that the information that was shared with us about what you are doing will help us to ask for them not to take up the bill until we get this information.

Chairman HENSARLING. The time of the gentleman has expired.

We have three remaining Members. We have votes on the Floor. If the Members wish to voluntarily restrain themselves to 4 minutes, I think we could conclude and allow our witness to exit.

The Chair now recognizes the gentleman from Tennessee, Mr. Fincher.

Mr. FINCHER. Thank you, Mr. Chairman.

And, Mr. Cordray, thank you for coming today. Manufactured housing has turned out to be a big issue in this committee. The last time you were here, several of us talked to you about it. You and I have had a conference call about trying to fix this issue.

Mr. CORDRAY. Yes.

Mr. FINCHER. Since the CFPB's new rules for HOEPA went into effect January 1st, manufactured-home lenders have stopped making loans that are less than \$20,000. A \$20,000 loan allows many families the opportunity to buy a starter home, build equity, and gain homeownership or sell a home and move to something better.

You made a statement a few minutes ago to my colleague, Mr. Ellison, about profits being up. This has nothing to do with profits of manufactured-home businesses, sellers. This has to do with access to consumers being able to purchase a product. The CFPB's new rules have caused a reduction of credit to low- and moderate-income borrowers with low credit scores, particularly those in rural, distressed, and underserved areas.

In conversations between the CFPB and my office, we have been told that the Bureau wants more data in this area. Voluntarily, at the request of the CFPB, leading manufactured-home lenders have provided a significant amount of data—4,000 pages, to be exact—in this regard on March 6th and March 24th of this year. It is my understanding that this data represents roughly one-third of the lending activity in the manufactured-home market.

In addition, data was given to the CFPB on the following dates during meetings between the industry and your staff: June 18, 2012; August 7, 2012; December 17, 2012; May 17, 2013; and September 23, 2013.

It is also my understanding that the CFPB has, on their own initiative, communicated with additional manufactured-home lenders.

I am just going to kind of skip through some of this to hopefully leave time for my other colleagues.

Mr. CORDRAY. Sure.

Mr. FINCHER. Number one, can you confirm that the CFPB has received data from the leading lenders in the manufactured-home market? Just “yes” or “no.”

Mr. CORDRAY. Yes.

Mr. FINCHER. Okay.

Mr. CORDRAY. Not all that we want. And the March data will be most relevant. And, to be honest, in our efforts to protect against personally identifiable information, we have had to have some back-and-forth with the people who submitted that data to make sure it is being handled correctly. And I believe it will be helpful to us. Yes.

Mr. FINCHER. Okay.

You have the ability to mitigate the impact of Dodd-Frank, HOEPA, and loan origination rules on manufactured-home owners and the industry that serves them, but you continue to delay after the industry thoroughly complied with your data request.

My other question—and this has been, I guess, today, much more than about manufactured homes. The data that you are collecting, is it the practice of your agency to collect this data and do nothing with it?

Mr. CORDRAY. That is not our practice.

Mr. FINCHER. Okay.

Mr. CORDRAY. Look, I am not collecting data because I am collecting baseball cards or something. This is information necessary so that we can do things that all of you want: We can understand what is happening in the mortgage market, whether the rules are getting it right or getting it wrong; whether the Credit CARD Act is helping or hurting, and if not, whether Congress wants to reconsider some of it or whether we should reconsider. That is the kind of information we need.

Mr. FINCHER. We want to get this fixed. We have a bill with over 100 cosponsors. This is bipartisan. This is not rocket science, Director. We have been willing to negotiate and try to make this bill more—

Mr. CORDRAY. There are a number of bills. Which one are you talking about?

Mr. FINCHER. We are working to make it where we can pass this through the House, get this problem fixed with the industry—and more than the industry. This is not about the industry.

Mr. CORDRAY. What is “this?” Is it data collection, or is it manufactured housing, or—

Mr. FINCHER. Manufactured housing.

Mr. CORDRAY. Okay. I see.

Mr. FINCHER. This is about the consumer having and being able to purchase a product. That is what this is about. This is not about business. This is about the consumer.

So, we are going to keep working, and hopefully you will be given the data that you need.

Mr. CORDRAY. Yes.

Mr. FINCHER. And, with that, Mr. Chairman, I yield back.

Mr. CORDRAY. And—

Chairman HENSARLING. The gentleman yields back.

The Chair now recognizes—

Mr. CORDRAY. Could I—

Chairman HENSARLING. —the gentleman from Illinois, Mr.—

Mr. CORDRAY. Mr. Chairman?

Chairman HENSARLING. —Hultgren, and informs remaining Members that there is about 8½ minutes left on the vote on the Floor.

Mr. CORDRAY. All right.

Mr. HULTGREN. Thanks, Mr. Chairman.

Director Cordray, I would like to focus on why the CFPB is spending money to renovate a building it doesn't own. We have not received a satisfactory answer yet on this question.

Just last week, you testified before the Senate Banking Committee that the building renovation costs were “taken account of in the lease that we negotiated with the OCC so that our lease payments were less over the 30 years to take account of the fact that we, not the landlord, would be making the improvements to the building.”

This is not what the OCC tells us. In fact, they say, and I quote, “The OCC contracted with an independent real estate appraiser to determine the fair market value of 1700 G Street and a fair market rental rate. The appraisal considered the current condition of the building. The fair market value of the building and the fair market rental rate were not based on any assumption that the building would be renovated or upgraded. Rather, the fair market value was based on the assumption that the building would be leased as is. The appraiser determined a fair market range for the rental rate. The agreement between the OCC and the CFPB provides for a triple net rate that reflects the midpoint range of the appraisal.”

I have several questions on this. Director Cordray, how do you—

Mr. CORDRAY. That is consistent with what I am saying.

Mr. HULTGREN. Let me finish my questions.

How do you reconcile the OCC statements with your own testimony, first of all? Will you provide the committee with documentation substantiating those claims?

And if, as you previously testified, the Bureau knew that at least \$100 million would be needed to renovate the building, yet this cost would not be taken into account in rent, as the OCC asserts, why would the Bureau volunteer to make these renovations rather than find a more suitable location? How does this make any fiscal sense? And do you not have an obligation to expend your agency's funds responsibly?

Mr. CORDRAY. Let me try to lay this out. And I really want to get this across, because what you said is just consistent with what I have said.

What the OCC did was they put together a lease and they set a rate based on the as-is condition of the building, which right now is classed, generously in my view, as a Class C building, barely subpar. So that is the rent that we are paying over the 30 years.

After we do these renovations, we hope that the building will at least be a Class B building. I don't know if it will ever get to be a Class A building. That would be a higher rent.

Having done the renovation ourselves, we will then have potentially a Class B building for the remainder of the occupancy agreement, which is a significant amount of time, paying Class C rent. That is the difference between the two, and it comes out exactly as I tried to lay it out.

Mr. HULTGREN. Yes, it seems like a conflict to me, and it seems like a misuse of taxpayer dollars, when certainly there could have been something available that would be much more appropriate.

Let me move on to the QM rule. The CFPB has adopted policies that have increased legal uncertainty rather than alleviate that uncertainty, which has hurt the growth of the mortgage market.

One example is the CFPB's decision not to preclude the use of oral evidence in cases brought by borrowers claiming that they did not have an ability to repay. In its QM rule, the CFPB states that the Bureau believes that courts would determine the weight to be given to such evidence on a case-by-case basis. In response to this decision, we have heard that banks and credit unions will need to videotape closings to have a record of everything a borrower says at the closing table.

Have you heard about this problem? Is this an example of the CFPB's policies creating new compliance burdens and massive legal uncertainty for smaller lenders already struggling under the regulatory onslaught unleashed by the Dodd-Frank Act?

And I wondered if you would be willing to reconsider this decision to provide more certainty to community financial institutions that are suffering under the weight of regulatory burden and uncertainty.

Mr. CORDRAY. So, two things. The first is that we now have some months of data, and there has not been a huge spike in interest rates because of risk around potential litigation. We predicted that there would not be any significant spike. There has not been. And I think the market has pretty much—

Mr. HULTGREN. I think the biggest concern I have heard is compliance burdens. And that is a concern. The idea of having to videotape closings is ridiculous, and yet that is the concern.

Mr. CORDRAY. If somebody wants to—

Mr. HULTGREN. My time has expired. I am going to yield back the balance of my time so Mr. Ross can finish up.

Mr. Chairman, I yield back.

Mr. CORDRAY. We are working to streamline the closing process, and that is an exciting initiative of the Bureau.

Chairman HENSARLING. The gentleman has yielded back.

The Chair now recognizes the gentleman from Florida, Mr. Ross.

Mr. ROSS. Thank you, Mr. Chairman.

Director Cordray, the semi-annual report states, "The Bureau is in the process of considering what regulations to propose to address

issues in the market for small-dollar credit that have been identified through the Bureau's research and public engagement."

And I have discussed this with you before with regard to payday lending and small-dollar credit. I come from Florida; we have a great law in that regard. I understand you have been working with Commissioner Breakspear at the Office of Financial Services.

What is your timeline in issuing regulations in that particular industry for small-dollar credit?

Mr. CORDRAY. We just published our unified agenda, which kind of lays out the immediate future in terms of potential rulemakings at the Bureau. That is something we did and we published on our Web site in response to an oversight question I got from Congressman McHenry a number of sessions ago. We indicated that on the payday lending, we will be writing rules. We expect those to potentially come out in a Small Business Regulatory Enforcement Fairness Act (SBREFA) process sometime later this fall, and that would be—

Mr. ROSS. Okay.

Mr. CORDRAY. —our expectation.

Mr. ROSS. So within the next 6 months, easily?

Mr. CORDRAY. I think that is fair, yes.

Mr. ROSS. Okay.

You testified to Mr. Luetkemeyer that you are not actively participating in the Operation Choke Point, yet many of the businesses that are being affected by this come under your regulation. Do you feel that you are being usurped, your authority is being usurped by bank examiners or banking regulators that are engaged in the Operation Choke Point?

Mr. CORDRAY. I don't think so. The reality is—and I found this when I came into the Bureau, and I was a little surprised because I just didn't know how these things worked at the Federal level—there are a number of Federal banking agencies with some real overlap among them. That is alleviated by us working together in a close and collaborative fashion—

Mr. ROSS. But do you—

Mr. CORDRAY. —which we try to do.

Mr. ROSS. Are you working with them under that operation?

Mr. CORDRAY. What we try to do is pay attention to know-your-customer issues, and—

Mr. ROSS. Now, there is a \$17-billion business—

Mr. CORDRAY. —that is important.

Mr. ROSS. —out there in consumer loans and small-dollar credit.

Mr. CORDRAY. Yes.

Mr. ROSS. Operation Choke Point, if it were to eliminate, due to reputational risk, this particular supply, if you will, the demand will remain. What will happen to those consumers who need this particular market niche?

Mr. CORDRAY. What we are working on right now is potential regulations that you and I just discussed for the industry.

Mr. ROSS. Right, but when you—

Mr. CORDRAY. That is not consistent with wiping out the industry. It is regulations to make sure that the industry is working in a pro-consumer fashion. That is our intent.

I have recognized and acknowledged the demand for small-dollar credit. People—

Mr. ROSS. It will be there.

Mr. CORDRAY. —have that demand.

Mr. ROSS. And if they don't have it in a regulated fashion, they are going to get it in a black-market fashion, and that is even more harmful to the consumer.

Mr. CORDRAY. I agree with you on that.

Mr. ROSS. Finally, with regard to the rule of law, and, as a lawyer, you believe in due process and—

Mr. CORDRAY. I do.

Mr. ROSS. —bulletins, the issuance of bulletins, they don't hold the force and effect of a regulation or statutory law. Yet, you continue to issue bulletins, which don't allow for public comment, in lieu of issuing even interim rules and regulations. Why is that? And what can be done soon to get that resolved?

Mr. CORDRAY. So, again, my understanding of the Administrative Procedure Act, it goes back about 70 years now, is that there is a distinction between substantive rules that change the law, and notice and comment is required, and then guidance and other things that agencies use quite a bit, which is not really a change in the law, it is just a clarification or restatement of the law so that people can understand more clearly what—

Mr. ROSS. So your April 30th press release commending BMO Harris for adopting the pay scheme recommended by the CFPB is a guidance, it is not a substantive law?

Mr. CORDRAY. That was just a statement to the media. That is all that was. Yes.

Mr. ROSS. Mr. Chairman—

Mr. CORDRAY. But I meant what I said. But it was—

Mr. ROSS. —I yield back.

Chairman HENSARLING. The gentleman yields back.

I want to thank Director Cordray for his testimony today.

The Chair notes that some Members may have additional questions for this witness, which they may wish to submit in writing. Without objection, the hearing record will remain open for 5 legislative days for Members to submit written questions to this witness and to place his responses in the record. Also, without objection, Members will have 5 legislative days to submit extraneous materials to the Chair for inclusion in the record.

This hearing stands adjourned.

[Whereupon, at 1:15 p.m., the hearing was adjourned.]

A P P E N D I X

June 18, 2014

**Testimony of Richard Cordray
Director, Consumer Financial Protection Bureau
Before the House Committee on Financial Services
June 18, 2014**

Chairman Hensarling, Ranking Member Waters, and Members of the Committee, thank you for inviting me to testify today about the Semi-Annual Report of the Consumer Financial Protection Bureau.

The Consumer Financial Protection Bureau is the nation's first federal agency with the sole focus of protecting consumers in the financial marketplace. Financial products like mortgages, credit cards, and student loans involve some of the most important financial transactions in people's lives. Since we opened our doors, we have been focused on making consumer financial markets work better for the American people, the honest businesses that serve them, and the economy as a whole.

My testimony today focuses on the Bureau's fifth Semi-Annual Report to Congress, which describes the Bureau's efforts to achieve its important mission. Through fair rules, consistent oversight, appropriate enforcement of the law, and broad-based consumer engagement, the Bureau is helping to restore American families' trust in consumer financial markets, to protect American consumers from improper conduct, and to ensure access to fair, competitive, and transparent markets.

Through our enforcement actions to date, we have aided in efforts to refund more than \$3.8 billion to consumers who fell victim to various violations of consumer financial protection laws. In the fall of 2013, for the first time, we took action, in conjunction with multiple state Attorneys General, against an online loan servicer for illegally collecting money that consumers did not owe. We took action against a payday lender for overcharging servicemembers in violation of the Military Lending Act, and robo-signing court documents. We took action against an auto lender for discriminatory loan pricing. And we partnered with 49 states in bringing an action against the nation's largest nonbank mortgage loan servicer for misconduct at every stage of the mortgage servicing process.

In January, mortgage rules that the Bureau issued to implement provisions of the Dodd-Frank Act took effect, establishing new protections for homebuyers and homeowners. During the reporting period, we also issued another major mortgage rule mandated by the Dodd-Frank Act: a final rule to consolidate and improve federal mortgage disclosures under the Truth in Lending Act and the Real Estate Settlement Procedures Act, which we have called "Know Before You Owe." We also issued an Advance Notice of Proposed Rulemaking on debt collection, asking the public in-depth questions about a range of issues relating to the debt collection market, which is the Bureau's most frequent source of consumer complaints.

To promote informed financial decision-making, we have continued providing consumers with online resources, including the AskCFPB section of our website, where we have answers for over 1,000 frequently-asked questions.

A premise at the heart of our mission is that consumers should be treated fairly in the financial marketplace, and that they deserve a place that will facilitate the resolution of their complaints when that does not happen. As of June 1, 2014, we have received nearly 375,000 consumer complaints on credit reporting, debt collection, money transfers, bank accounts and services, credit cards, mortgages, vehicle loans, payday loans, and student loans.

The progress we have made has been possible thanks to the engagement of hundreds of thousands of Americans who have used our consumer education tools, submitted complaints, participated in rulemakings, and told us their stories through our website and at numerous public meetings from coast to coast. We have also benefited from an ongoing dialogue and constructive engagement with the institutions we supervise, as well as with community banks and credit unions, with whom we regularly meet.

Our progress is also thanks to the extraordinary work of the Bureau's employees – dedicated public servants of the highest caliber who are committed to promoting a fair consumer financial marketplace. The Bureau's employees are our greatest asset.

They are the reason I took decisive and comprehensive action to remedy the problems related to our performance ratings system. After our analysis showed ratings disparities across a wide range of employee characteristics, we negotiated with our union to discard the system, announced that we would adjust past compensation, and agreed to a joint working group with our union to design a new system. By self-correcting and self-remediating disparities in our performance ratings, I am also holding us to the same standard we expect from the industries we oversee.

I have also elevated our Office of Minority and Women Inclusion (OMWI) to work directly out of my office and tasked the head of OMWI, Stuart Ishimaru, with conducting Bureau-wide listening sessions to hear directly from our employees about their experience with equality and fairness. We have also instituted additional mandatory Equal Employment Opportunity training for all of our managers. We will continue to work on creating an organization that consciously embraces diversity.

Chairman Hensarling, Madam Ranking Member, each day, Bureau employees work to accomplish the goals of renewing people's trust in the marketplace and ensuring that markets for consumer financial products and services are fair, transparent, and competitive. These goals not only support consumers in all financial circumstances, but also help businesses compete on a level playing field, and reinforce the stability of our economy as a whole.

Thank you for the opportunity to appear before you. I appreciate the benefit of your active interest and oversight. And I look forward to your questions today.



CFPB By The Numbers

- **Over \$3.8 Billion:** Amount of refunds and relief provided to consumers as a result of CFPB enforcement actions to consumers who had been subjected to illegal practices
- **12.6 Million:** Number of consumers who will receive refunds because of CFPB enforcement actions
- **200 Million:** Number of consumers who have files at the major consumer reporting agencies, which are now subject to federal supervision for the first time
- **30 Million:** Number of consumers currently subject to debt collection agencies, which are now subject to federal supervision for the first time
- **12 Million:** Number of consumers who use loans from payday lenders, which are now subject to federal supervision for the first time
- **2 Million:** Number of households for which nonbanks originated mortgage loans in 2011 and which are now subject to federal supervision for the first time
- **354,600:** Number of complaints CFPB received since the CFPB opened its doors in July 2011.
- **1073:** Number of consumer questions answered in [*Ask CFPB*](#)
- **2,069:** Number of colleges voluntarily adopting the [*Financial Aid Shopping Sheet*](#) developed by the CFPB and the U.S. Department of Education.
- **147:** Number of banks under the with CFPB's supervisory authority as of March 2014
- **73:** Number of military installations visited by the Office of Servicemember Affairs since 2011
- **50:** Number of times senior CFPB officials have testified before Congress
- **26:** Number of public town halls and field hearings CFPB has held since opening its doors in July 2011:
 - Philadelphia, Pennsylvania
 - Minneapolis, Minnesota
 - Cleveland, Ohio
 - Birmingham, Alabama
 - New York City, New York
 - Sioux Falls, South Dakota

May 13, 2014

- Durham, North Carolina
- Detroit, Michigan
- St. Louis, Missouri
- Seattle, Washington
- Mountain View, California
- Baltimore, Maryland
- Atlanta, Georgia
- Des Moines, Iowa
- Miami, Florida
- Los Angeles, California
- Portland, Maine
- Itta Bena, Mississippi
- Washington, D.C.
- Chicago, Illinois
- Boston, Massachusetts
- Dallas, Texas
- Phoenix, Arizona
- Washington, D.C.
- Nashville, Tennessee
- Washington, D.C.

Mortgage Rules Made Effective January 10, 2014

- **Rule Protecting Consumers From Irresponsible Mortgage Lending:** The Bureau issued a rule to protect consumers from irresponsible mortgage lending by requiring lenders to ensure prospective buyers have the ability to repay their mortgage. The rule also protects borrowers from risky lending practices such as “no doc” and “interest only” features that contributed to many homeowners ending up in delinquency and foreclosure after the 2008 housing collapse.
- **Rules Establishing Strong Protections For Homeowners Facing Foreclosure:** The Bureau issued rules to establish new, strong protections for struggling homeowners facing foreclosure. The rules also protect mortgage borrowers from costly surprises and runarounds by their servicers. The CFPB’s mortgage servicing rules ensure that borrowers in trouble get a fair process to avoid foreclosure. The CFPB’s rules help every borrower, whether struggling or not, by bringing greater transparency to the market with clear and timely information about mortgages. The rules also require common-sense policies and procedures for handling consumer accounts and preventing runarounds.
- **Rules Preventing Lenders From Steering Consumers Into Risky Mortgages:** The Bureau issued rules to prevent mortgage lenders from steering borrowers into risky and high-cost loans. The rules ban certain incentives that loan originators had to sell unsafe loans to consumers in the run-up to the financial crisis.
- **Rule Strengthening Protections For High-Cost Mortgages:** The Bureau issued a rule that strengthens consumer protections for high-cost mortgages and to provide consumers with information about homeownership counseling. For high-cost mortgages, the rule bans potentially risky features and limits certain fees and practices.

May 13, 2014

- **Rule Improving Consumer Access to Appraisal Reports:** The Bureau issued a rule that requires mortgage lenders to provide applicants with free copies of all appraisals and other home-value estimates. The rule ensures that consumers can receive information prior to closing about how the property's value was determined. The rule requires that creditors inform consumers within three days of receiving an application for a loan of their right to receive copy of all appraisals.
- **Rule On Appraisals For Higher-Priced Mortgages:** Six federal financial regulatory agencies issued a rule that establishes new appraisal requirements for "higher-priced mortgage loans." For higher-priced mortgage loans, the rule requires creditors to use a licensed or certified appraiser who prepares a written appraisal report based on a physical inspection of the interior of the property.
- **Rule Expanding Timeframe Required For Escrow Accounts:** The Bureau issued a rule that generally extends the amount of time required for escrow accounts to five years. To preserve access to credit, the rule exempts loans made by certain creditors that operate predominantly in rural or underserved areas, as long as certain other criteria are met.

###

The Consumer Financial Protection Bureau is a 21st century agency that helps consumer finance markets work by making rules more effective, by consistently and fairly enforcing those rules, and by empowering consumers to take more control over their economic lives. For more information, visit www.consumerfinance.gov.

**“The Semi-Annual Report of the Consumer Financial Protection Bureau”
House Committee on Financial Services Hearing
Additional Questions For the Record
June 18, 2014**

Questions for the Record Submitted by Chairman Jeb Hensarling:

1. During the hearing the following exchange occurred:

CORDRAY: We buy it from the same commercial sources that everybody else buys it from.

NEUGEBAUER: Who -- what are the names of those vendors?

CORDRAY: I don't recall offhand, but I'd be happy to get those to you and -- and to your staff.

- a. Please provide a list of all vendors from whom the CFPB is purchasing information.

Response:

Argus, Blackbox, Bloomberg, Clarity, CoreLogic, Experian, Informa, Mintel, Moodys, SNL Financial LC, and Veritech.

- b. Please provide complete, unredacted contracts between the CFPB and these vendors.

Response:

Attached are the following contracts:

- CFP-12-C-00001
- TPD-CFP-11-C-0012
- TPD-CFP-11-C-0015
- TPD-CFP-12-C-0017
- TPD-CFP-12-C-0010
- TFSA-CFP-14-C-0006
- TPD-CFP-12-C-0016
- TPD-CFP-12-K-00068
- TPD-CFP-13-K0066
- TFSA-CFP-14-C-0002
- CFP-14-C-00011
- TPD-CFP-12-C-0009
- TFSA-CFP-140014

2. Have you examined the impact of the Federal Reserve's low interest rate policy on income-producing assets, like CDs or savings accounts, of Americans in or near retirement? If so, what did you conclude?

Response:

The Consumer Financial Protection Bureau does monitor the consumer financial markets and understands that the current interest rate environment can have differential effects on borrowers and savers. However, the Bureau has not undertaken a formal study of the current effect of interest rates on Americans in or near retirement.

3. The final Qualified Mortgage rule does not preclude the use of oral evidence in cases brought by borrowers in ability-to-repay cases. The Bureau states that "courts will determine the weight to be given to such evidence on a case-by-case basis." Some are concerned that the standard for the rebuttable presumption creates greater uncertainty regarding regulatory burdens and litigation costs, reducing the incentive to provide such products.

- a. Are you aware of these concerns?

Response:

Yes, these concerns were raised in comments during the Ability-To-Repay (ATR)/Qualified Mortgage (QM) rulemaking. The Consumer Financial Protection Bureau (Bureau) carefully considered these comments during the rulemaking, but believed that excluding oral evidence across the board would invite abuses in which consumers could be misled or coerced by an unscrupulous loan originator into keeping certain facts out of the written record.

- b. Is the Bureau aware that banks and credit unions are considering whether to videotape closings to have a record of everything a borrower says at the closing table?

Response:

The Bureau has anecdotal evidence of such considerations.

- c. Is the Bureau making any effort to increase the certainty for smaller lenders who are adversely affected by the rebuttable presumption standard in the final QM rule?

Response:

The Bureau has provided small creditors a safe harbor QM annual percentage rate (APR) over average prime offer rate (APOR) threshold that is more than twice as high as the threshold that

applies to all other creditors: 3.5 percent instead of 1.5 percent. Such a higher threshold allows small creditors more certainty in meeting the safe harbor standard.

4. During the hearing the following exchange occurred:

ROSS: And so your April 30th press release commending BMO Harris for adopting the pay scheme recommended by the CFPB is a guidance, not a...

CORDRAY: That was just a statement.

ROSS: ... not a substantive law?

CORDRAY: That was just a -- that was just a statement for the media. That's all that was.

- a. Please explain what "a statement for the media" is.
- b. Does a "statement for the media" have legal effect?
- c. Does the Bureau acknowledge that even its informal proclamations—*e.g.*, statements for the media—have a material effect on the businesses and individuals that it regulates?
- d. Please list all "statements for the media" that the CFPB has issued since July 21, 2011.

Response:

On April 30, 2014, the Consumer Financial Protection Bureau (Bureau) issued a statement for the media, which is often termed a "press release," commenting on a change in lending policy initiated by BMO Harris. This statement did not have legal effect, as it did not implement, interpret, or prescribe law or policy. In fact, the statement explicitly noted that "[t]he CFPB does not mandate any specific form of dealer pricing and compensation, and has indicated that lenders may choose to adopt a variety of means, including but not limited to non-discretionary pricing and compensation policies." A full list of the Bureau's prior statements for the media is available on the Bureau's website at <http://www.consumerfinance.gov/newsroom/>

5. The Bureau appears to have difficulty understanding that every dollar it expends on renovations and operations is a dollar made unavailable to the American taxpayer. Under the Dodd-Frank Act, the CFPB is permitted to draw down from the Federal Reserve's account as much money as it wants up to a certain limit.
 - a. Under Federal law, what happens to excess money that remains in the Federal Reserve's account at the end of each fiscal year?

Response:

The Consumer Financial Protection Bureau (Bureau) is constantly focused on using taxpayer funds wisely. The Bureau's operations are funded principally by transfers made by the Board of Governors of the Federal Reserve System (Federal Reserve System or Federal Reserve) from the combined earnings of the Federal Reserve System, up to the limits set forth in Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). The Bureau's Director requests transfers from the Federal Reserve System in amounts that he has determined are reasonably necessary to carry out the Bureau's mission without exceeding the limits set forth in the Dodd-Frank Act. Under the Federal Reserve's policy, the residual earnings of each Federal Reserve Bank are distributed to the U.S. Department of Treasury, after providing for the costs of operations, payment of dividends, and the amount necessary to equate surplus with capital paid-in.¹

The Federal Reserve Board of Governors is the best source for additional details.

- b. Assuming for purposes of this question that the amount of money in the Federal Reserve's account is a constant, does the CFPB's expenditure of millions of dollars on renovations of its building ultimately reduce or increase the amount of money the Federal Reserve transfers to the public treasury at the end of the fiscal year?

Response:

The funds used for the building renovations were transferred to the Bureau from the Federal Reserve in fiscal year 2013 (FY 2013). The Board of Governors assesses the Federal Reserve Banks to fund operations of the Bureau. The impact of the FY 2013 transfers to the Bureau is accounted for by the Federal Reserve Board.²

The Federal Reserve Board of Governors is the best source for additional details.

- c. Money in the public treasury is used to pay interest on the national debt. If the CFPB's expenditure of money on lavish renovations decreases the amount of money in the Treasury (relative to how much money would be in the Treasury if CFPB's renovation costs were lower), will Treasury have less money to pay interest on the national debt, thus hastening the arrival of the next so-called "debt ceiling"?

¹ See <http://www.federalreserve.gov/newsevents/press/other/20140110a.htm>.

² See <http://www.federalreserve.gov/publications/annual-report/files/2013-annual-report.pdf> [p. 98].

Response:

The Bureau is making a one-time investment to renovate its headquarters building. As the headquarters building has not undergone significant renovation since it was constructed in 1976, the Bureau has initiated a capital improvement plan designed to meet workplace and energy-efficiency goals, including upgrades to the building infrastructure; meeting enhanced federal security requirements; replacement of aging mechanical and electrical systems, which have reached the end of their lifecycle; installation of energy-efficient lighting and structures; and repair of the parking garage decks, sidewalks, and public spaces. The building is a government-owned asset; as with other structures, it requires upkeep and maintenance in order to maintain its value.

The Office of Budget and Management and U.S. Department of Treasury are the best sources for additional details.

6. Your Chief Administrative Officer has indicated that the Bureau will run a shuttle bus service for employees every 45 minutes between 1625 I St. and One Constitution Square during the three-year renovation process. How much will this shuttle bus service cost? Please provide the committee a copy of this contract.

Response:

The Consumer Financial Protection Bureau has entered into a contract for two shuttle buses that run between 1625 Eye St and One Constitution Square. The buses run from 8 AM to 6 PM and cost \$208,000 per year for both. This contract was also requested through a October 24, 2014 letter, for which a response is being prepared and the contract will be provided with the response.

7. Your Chief Administrative Officer has also indicated that the Bureau has elected to extend its business hours beyond the standard hours contemplated in the GSA-CFPB occupancy agreement, and as a result will incur additional costs. What will these costs be over the Bureau's three-year occupancy of One Constitution Square? Please provide all budget estimates and any agreement with the GSA detailing arrangements for extended building hours.

Response:

Initially, the building hours at One Constitution Square for Consumer Financial Protection Bureau employees were 7 AM to 5 PM, Monday through Friday. However, because some employees begin work later in the morning and work past 5 PM, the Bureau extended its working hours, which are currently 7 AM to 7 PM, Monday through Friday. The General Services Administration's (GSA) estimated cost of this supplemental heating, ventilation, and air conditioning (HVAC) is \$156,941.82 for the next year. The reimbursable work authorization is attached.

8. How much will it cost to replace the windows in your building? How much does GSA estimate it will cost?

Response:

The General Services Administration (GSA) is currently conducting a procurement for a general contractor for the renovation of 1700 G St NW, and because of this, cost estimates are considered procurement sensitive information that may not be publicly released before contract award under 41 U.S.C. § 2102.

9. The Bureau is building a 4-story interior glass and steel staircase. What is the GSA's cost estimate for this staircase?

Response:

The General Services Administration (GSA) is currently conducting a procurement for a general contractor for the renovation of 1700 G St NW, and because of this, cost estimates are considered procurement sensitive information that may not be publicly released before contract award under 41 U.S.C. § 2102.

10. It would appear from the Skidmore, Owings, & Merrill designs that the plaza renovations will likely cost several million dollars. At the hearing, Rep. Campbell asked you about the cost of renovations to the outdoor plaza, which will include a granite waterfall and other features. You responded by saying "that's not going to be a lot of cost expended on that, I can tell you that." Please provide the Committee with an itemized cost estimate for all of the renovations to the plaza, including aggregate totals calculated by both the Bureau and the GSA.

Response:

The General Services Administration (GSA) is currently conducting a procurement for a general contractor for the renovation of 1700 G St NW, and because of this, cost estimates are considered procurement sensitive information that may not be publicly released before contract award under 41 U.S.C. § 2102.

11. How much will demolition and replacement of the HVAC system cost the Bureau?

Response:

The General Services Administration (GSA) is currently conducting a procurement for a general contractor for the renovation of 1700 G St NW, and because of this, cost estimates are considered procurement sensitive information that may not be publicly released before contract award under 41 U.S.C. § 2102.

12. How much will it cost to install a so-called “green roof” on the building?

Response:

The General Services Administration (GSA) is currently conducting a procurement for a general contractor for the renovation of 1700 G St NW, and because of this, cost estimates are considered procurement sensitive information that may not be publicly released before contract award under 41 U.S.C. § 2102.

13. What will happen to the OCC’s retail tenants during and after renovation? Bureau architectural documents show that the Met Café restaurant will be evicted and turned into a child care facility for the children of Bureau employees, yet the OCC told the Met Café owners they can stay. Which is it? Have you provided written assurance to retail tenants that their ability to lease will remain intact? How much will it cost to buy them out of their leases, if that is CFPB’s decision?

Response:

The Consumer Financial Protection Bureau (Bureau) will adhere to the Occupancy Agreement with the Department of Treasury Office of Comptroller of the Currency (OCC) and ensure that the retail tenants are able to operate their businesses during the renovation. Conversations between the OCC and Met Café have begun, but no decisions have been made yet.

14. GSA says that the IT upgrades are not part of its managed renovation project but will be handled separately by the Bureau. How much will the Bureau spend on IT upgrades? The Bureau’s quarterly CFO update released on May 15 says that the Bureau incurred FY 2014 obligations that included:

- a. \$1.4 million for network switches and infrastructure to support wireless internet and video infrastructure for CFPB’s headquarters building; and
- b. \$1.3 million for network engineering and operations support.^[1]

Are these the IT upgrade costs associated with the building renovation project? Please provide any and all cost estimates for these planned IT upgrades.

Response:

These costs are not associated with the building renovation, and these costs would have occurred regardless of the building renovation. The amount of \$1.4 million is for the infrastructure needed to enable capabilities such as wireless access and video conferencing while at One

^[1] http://files.consumerfinance.gov/f/201405_cfpb_cfo-quarterly-update_q2.pdf.

Constitution Square. It is possible that this infrastructure may be re-used in 1700 G Street after the renovation. The amount of \$1.3 million represents contractor support to assist with the implementation of these capabilities and to manage the daily tasks and activities of the Consumer Financial Protection Bureau's network operations.

The network and other information technology (IT) equipment needs for the renovated 1700 G Street building will be purchased as early as fiscal year 2017.

15. GSA also says that Furniture, Fixtures & Equipment (FF&E) upgrades will not be part of its managed renovations, but will be handled separately by the Bureau. How much has the Bureau budgeted for these upgrades?

Response:

Furniture, fixtures and equipment (FF&E) will be purchased as early as fiscal year 2017. The Bureau is in the process of estimating the budget for FF&E.

16. The Bureau has applied to the DC State Historic Preservation Office to have the building at 1700 G Street listed on the National Register of Historic Places, and while the OCC owns the building, it did not join the application. The building is less than 40 years old and was built in the "brutalist" style. Please explain:

- a. What historic value do you see in a building you previously have described as a "dump" and a "white elephant"?

Response:

The Consumer Financial Protection Bureau's first application to the District of Columbia State Historic Preservation Office (SHPO) recommended against the designation of 1700 G Street NW as historic. The Bureau's reasons included the building's age (much less than the usual 50 years) and that the building was not a particularly notable example of the Brutalist style.³

However, SHPO and the U.S. Commission of Fine Arts (CFA) strongly felt that 1700 G Street NW was an important example of both Brutalism and of the GSA's open buildings program, which encouraged public use of government buildings. Accordingly, the Bureau revised the application, which ultimately required the Bureau to complete the process required by Section 106 of the National Historic Preservation Act of 1966.⁴ The building has been deemed eligible

³ Brutalism is a style of architecture credited to French architect Le Corbusier and practiced by other leading fellow architects such as Ludwig Mies van der Rohe and Frank Lloyd Wright. The brutalist style involved the use of monumental sculptural shapes and of raw, unfinished molded concrete, and it embraced a functional approach toward architectural design.

⁴ 36 CFR Part 800.

for inclusion on the Register of Historic Places but has not yet been placed on it. That decision rests with the National Park Service.

- b. If it is historic, why is the Bureau, in the words of the GSA project lead, doing a “total gut” of the building? Won’t a total gut fail to retain the historic nature of the building?

Response:

The historic nature of 1700 G Street NW is primarily attributable to the building’s exterior. Because of this, the basic structure will remain the same and any changes, such as new glass, will look very similar to the current features. Interior renovations will use materials similar to the original design and will reflect the architecture from the time the building was constructed.

Please see the attached SHPO/Bureau Memorandum of Agreement (MOA).

- c. What specific elements merit placement of this building on the historic registry? GSA says the only potential historic elements are 4 small medallions in the plaza fountain that can be easily moved. Do these small bronze medallions really justify the building’s historic status? What is there to preserve for the sake of history?

Response:

The medallions are one small part of these elements. The medallions were on one of the buildings that were located on this site previous to the current structure.

Please see the attached SHPO/MOA for a full listing of the architectural elements that SHPO feels merit historical preservation.

17. You testified at the hearing that in late 2010 and early 2011, Bureau leaders were aware that the building at 1700 G Street would require at least a \$100 million in renovations, yet they still chose the location. Why did they make this decision? Did they not have any obligation to minimize expenses and explore alternate rental options? Do you take full responsibility for the decision to locate the CFPB at its current address, despite its apparent need for millions of dollars in renovations, rather than looking for more suitable space elsewhere?

Response:

The Consumer Financial Protection Bureau is constantly focused on using funds wisely. In July 21, 2011, the Bureau and the Office of Comptroller of the Currency (OCC) came to an agreement on the terms of the Occupancy Agreement. The Bureau reviewed two outside reports in connection with this Occupancy Agreement. The first was a valuation by Ernst & Young for the OCC entitled, “Office of the Comptroller of the Currency: 1700 G Street NW as of 1 February 2011 Valuation for internal-decision making purposes.” The second report, by Gensler

for the Office of Thrift Supervision (OTS) in 2010, compared three renovation scenarios estimated at \$67 million, \$86 million, and \$107 million, respectively. The report detailed the poor conditions of the building and its systems, and laid out needed repairs. The lease payments to the OCC that were agreed upon in this agreement are substantially lower than the Bureau would have incurred in other space in this area and reflect the need for repairs/improvements.

18. In response to questions submitted for the record following the Committee hearing on January 28, 2014, you indicated that Bureau staff have been unable to locate any documents responsive to a request for commercial real estate market studies conducted between July 21, 2010, the date of enactment of the Dodd-Frank Act, and February 18, 2011, the date Elizabeth Warren announced in a blog post that the CFPB would be located at 1700 G Street. Are we to understand from this answer that the CFPB conducted no due diligence before entering into its letter of intent with the OCC? What motivated Bureau leadership to rent a building that you have repeatedly described as “a dump”?

Response:

The decision to enter into a temporary occupancy agreement with the Office of Comptroller of the Currency (OCC) was made under prior leadership, and when I became Director of the Consumer Financial Protection Bureau (Bureau), I affirmed that decision upon signing the occupancy agreement based on the building’s prime location, the time sensitivity of the decision, and the cost efficiency of the current building given renovation estimates. We stand by this decision and the decisions of prior Bureau leadership and believe the investments we are making in our headquarters location are prudent and in the best interest of the agency.

19. In 2012, the Bureau and the Federal Housing Finance Agency (FHFA) launched a project to build a National Mortgage Database containing data on mortgage borrowers. On December 10, 2012, the FHFA published a “Systems of Record Notice,” or “SORN,” regarding the National Mortgage Database (“NMDB”), as required by the Privacy Act of 1974. On April 16, 2014, a notice was published in the Federal Register announcing significant revisions to the SORN governing the NMDB. The April 16, 2014, SORN indicates that “contractor personnel, grantees, volunteers, interns, and others performing or working on a contract, service, grant, cooperative agreement, or project” will have the opportunity to access data in the NMDB.
 - a. Who will have access to data in the NMDB?
 - b. How many individuals have been authorized to access the data in the NMDB?
 - c. What is the authorization process for access to the NMDB?
 - d. Has every individual with access to the CFPB’s database been subjected to – and passed – a full background investigation?

- e. Can you estimate the number of employees that will have access to this information, from purchase to use?
- f. Will the Bureau be allowed to share information in the NMBD with external organizations or other federal agencies?
- g. With which government agencies, including federal, state, local, or foreign agencies, or private sector organizations, can the information be shared? What information is allowed to be shared, and for what purpose?

Response:

At present, the National Mortgage Database (NMDDB) is in development, and small teams within the Federal Housing Finance Agency (FHFA) and the Consumer Financial Protection Bureau (Bureau) have access to the data. Access to the data is controlled by the FHFA. Final decisions have not yet been made regarding if and how to release any data. Critically, any such decision regarding sharing will recognize privacy concerns and be consistent with all relevant contracts, agency policies and procedures, and applicable Federal regulations and statutes.

20. Regarding the April 16, 2014, notice in the Federal Register announcing significant revisions to the SORN governing the National Mortgage Database, please answer the following questions:
- a. Borrower/co-borrower address:
 - Is this information being collected?
 - List all data points to be included.
 - List each vendor that will provide this information.
 - List the sources used by each vendor to provide this information.
 - Why is it relevant and necessary for the CFPB to collect this information as part of the National Mortgage Database?
 - b. Borrower/co-borrower zip code:
 - Is this information being collected?
 - List all data points to be included.
 - List each vendor that will provide this information.
 - List the sources used by each vendor to provide this information.
 - Why is it relevant and necessary for the CFPB to collect this information as part of the National Mortgage Database?
 - c. Borrower/co-borrower telephone numbers:
 - Is this information being collected?
 - List all data points to be included.
 - List each vendor that will provide this information.
 - List the sources used by each vendor to provide this information.

- Why is it relevant and necessary for the CFPB to collect this information as part of the National Mortgage Database?
- d. Borrower/co-borrower race:
- Is this information being collected?
 - List all data points to be included.
 - List each vendor that will provide this information.
 - List the sources used by each vendor to provide this information.
 - Why is it relevant and necessary for the CFPB to collect this information as part of the National Mortgage Database?
- e. Borrower/co-borrower language:
- Is this information being collected?
 - List all data points to be included.
 - List each vendor that will provide this information.
 - List the sources used by each vendor to provide this information.
 - Why is it relevant and necessary for the CFPB to collect this information as part of the National Mortgage Database?
- f. Borrower/co-borrower religion:
- Is this information being collected?
 - List all data points to be included.
 - List each vendor that will provide this information.
 - List the sources used by each vendor to provide this information.
 - Why is it relevant and necessary for the CFPB to collect this information as part of the National Mortgage Database?
- g. Borrower/co-borrower social security number:
- Is this information being collected?
 - List all data points to be included.
 - List each vendor that will provide this information.
 - List the sources used by each vendor to provide this information.
 - Why is it relevant and necessary for the CFPB to collect this information as part of the National Mortgage Database?
- h. Borrower/co-borrower education records:
- Is this information being collected?
 - List all data points to be included.
 - List each vendor that will provide this information.
 - List the sources used by each vendor to provide this information.
 - Why is it relevant and necessary for the CFPB to collect this information as part of the National Mortgage Database?
- i. Borrower/co-borrower military status/records:
- Is this information being collected?

- List all data points to be included.
 - List each vendor that will provide this information.
 - List the sources used by each vendor to provide this information.
 - Why is it relevant and necessary for the CFPB to collect this information as part of the National Mortgage Database?
- j. Borrower/co-borrower employment status/records:
- Is this information being collected?
 - List all data points to be included.
 - List each vendor that will provide this information.
 - List the sources used by each vendor to provide this information.
 - Why is it relevant and necessary for the CFPB to collect this information as part of the National Mortgage Database?
- k. Borrower/co-borrower Financial Information:
- Is this information being collected?
 - List all data points to be included.
 - List each vendor that will provide this information.
 - List the sources used by each vendor to provide this information.
 - Why is it relevant and necessary for the CFPB to collect this information as part of the National Mortgage Database?
- l. Borrower/co-borrower account number:
- Is this information being collected?
 - List all data points to be included.
 - List each vendor that will provide this information.
 - List the sources used by each vendor to provide this information.
 - Why is it relevant and necessary for the CFPB to collect this information as part of the National Mortgage Database?
- m. Borrower/co-borrower financial events in the last few years:
- Is this information being collected?
 - List all data points to be included.
 - List each vendor that will provide this information.
 - List the sources used by each vendor to provide this information.
 - Why is it relevant and necessary for the CFPB to collect this information as part of the National Mortgage Database?
- n. Borrower/co-borrower life events in the last few years:
- Is this information being collected?
 - List all data points to be included.
 - List each vendor that will provide this information.
 - List the sources used by each vendor to provide this information.
 - Why is it relevant and necessary for the CFPB to collect this information as part of the National Mortgage Database?

- o. Borrower/co-borrower other assets/wealth:
 - Is this information being collected?
 - List all data points to be included.
 - List each vendor that will provide this information.
 - List the sources used by each vendor to provide this information.
 - Why is it relevant and necessary for the CFPB to collect this information as part of the National Mortgage Database?
- p. Credit card/other loan account type:
 - Is this information being collected?
 - List all data points to be included.
 - List each vendor that will provide this information.
 - List the sources used by each vendor to provide this information.
 - Why is it relevant and necessary for the CFPB to collect this information as part of the National Mortgage Database?
- q. Credit card/other loan credit amount:
 - Is this information being collected?
 - List all data points to be included.
 - List each vendor that will provide this information.
 - List the sources used by each vendor to provide this information.
 - Why is it relevant and necessary for the CFPB to collect this information as part of the National Mortgage Database?
- r. Credit card/other loan account balance amount:
 - Is this information being collected?
 - List all data points to be included.
 - List each vendor that will provide this information.
 - List the sources used by each vendor to provide this information.
 - Why is it relevant and necessary for the CFPB to collect this information as part of the National Mortgage Database?
- s. Credit card/other loan account past due amount:
 - Is this information being collected?
 - List all data points to be included.
 - List each vendor that will provide this information.
 - List the sources used by each vendor to provide this information.
 - Why is it relevant and necessary for the CFPB to collect this information as part of the National Mortgage Database?
- t. Credit card/other loan account minimum payment amount:
 - Is this information being collected?
 - List all data points to be included.
 - List each vendor that will provide this information.

- List the sources used by each vendor to provide this information.
 - Why is it relevant and necessary for the CFPB to collect this information as part of the National Mortgage Database?
- u. Credit card/other loan account actual payment amount:
- Is this information being collected?
 - List all data points to be included.
 - List each vendor that will provide this information.
 - List the sources used by each vendor to provide this information.
 - Why is it relevant and necessary for the CFPB to collect this information as part of the National Mortgage Database?
- v. Credit card/other loan account high balance amount:
- Is this information being collected?
 - List all data points to be included.
 - List each vendor that will provide this information.
 - List the sources used by each vendor to provide this information.
 - Why is it relevant and necessary for the CFPB to collect this information as part of the National Mortgage Database?
- w. Credit card/other loan account charge off amount:
- Is this information being collected?
 - List all data points to be included.
 - List each vendor that will provide this information.
 - List the sources used by each vendor to provide this information.
 - Why is it relevant and necessary for the CFPB to collect this information as part of the National Mortgage Database?
- x. Credit card/other loan second mortgage:
- Is this information being collected?
 - List all data points to be included.
 - List each vendor that will provide this information.
 - List the sources used by each vendor to provide this information.
 - Why is it relevant and necessary for the CFPB to collect this information as part of the National Mortgage Database?
- y. Presence of children by various age categories in household:
- Is this information being collected?
 - List all data points to be included.
 - List each vendor that will provide this information.
 - List the sources used by each vendor to provide this information.
 - Why is it relevant and necessary for the CFPB to collect this information as part of the National Mortgage Database?
- z. Household deceased indicator:

- Is this information being collected?
- List all data points to be included.
- List each vendor that will provide this information.
- List the sources used by each vendor to provide this information.
- Why is it relevant and necessary for the CFPB to collect this information as part of the National Mortgage Database?

Response:

The Federal Housing Finance Agency (FHFA), which under an Inter-Agency Agreement between the Consumer Financial Protection Bureau (Bureau) and FHFA is responsible for issuing any System of Records Notices (SORNs) related to the National Mortgage Database (NMDB), issued a notice published in the Federal Register on April 16, 2014 that amended the SORN governing the NMDB. Several of the data elements listed in that SORN and the question above are not part of the data that will comprise the NMDB and, as such, are not data elements that Bureau staff can access. Since some of these data elements may be used by FHFA or its contractors when matching the disparate input datasets that produce the NMDB, FHFA would be better positioned to respond to questions about the data elements it selected to include in this SORN.

The data elements listed in this question that will be part of the NMDB data that the Bureau can access come from three primary sources. The first source is the FHFA and Bureau joint National Survey of Mortgage Borrowers, which provides de-identified information about financial and life events in the last few years. The agencies collect this information directly from recent mortgage borrowers who choose to complete the voluntary survey. The completed survey results are anonymous and confidential. Bureau staff do not have access to any information that directly identifies the survey respondents. The Bureau and the FHFA will use this information to develop a better understanding of how financial and life events, which include things like recent unemployment spells, divorce, or the death of a household member, contribute to subsequent mortgage performance. The agencies will also use the information to monitor the extent to which such events are affecting the functioning of the mortgage market.

A second source of information is de-identified credit records procured from Experian. This source provides the nine data elements listed in sub-questions (p) through (x) about credit cards, second mortgages, or other accounts, as well as the deceased indicator. This information is necessary to answer many of the policy related questions that the NMDB will be used to address.

A third source of information is the de-identified marketing files for the mortgage borrowers in our sample, also procured from Experian. These files contain information commonly used by businesses in marketing to consumers. Experian compiles this information from several sources including self-reported surveys and predictive models in order to provide demographic data to their clients. FHFA and the Bureau will use this data to assess how mortgage markets are serving specific demographic groups, including racial or ethnic groups and different household types (e.g., single parent households).

Experian's marketing data include occupational groups (limited to six categories: professional/technical, sales/service, farm related, blue collar, retired, or other), but no records indicating where or when a consumer has worked. Additionally, Experian's marketing data report a consumer's highest level of education completed, but do not include records related to where or when a consumer went to school. The marketing data includes certain other information, such as religion and language, which is included in the off-the-shelf product that the marketing firm provides to clients. The FHFA will no longer receive any religion or language data from Experian as part of this project, and data on religion or language will not be included in the NMDB.

21. In its semi-annual report to Congress, the CFPB purports to be using debt collection complaint data to inform its policy judgments on regulatory issues affecting the debt collection industry. At the same time, the CFPB clearly states that complaints received are not reviewed or investigated to determine whether actual wrongdoing or illegal activity has occurred. How can this inherently subjective and unverified data credibly be used to shape meaningful public policy decisions?

Response:

It is the Consumer Financial Protection Bureau's (Bureau) goal to develop rules that protect consumers without imposing undue burdens on the collection industry. The Bureau's governing statute itself states that the Bureau shall monitor for risks to consumers in support of its rulemaking and other functions. Reviewing consumer complaints is part of the Bureau's monitoring function, and we note that our review of such complaints is not limited to the consumer's initial complaint but rather may also include the Bureau's own investigation and the company's response to the complaint.⁵ In this manner, consumer complaints can be an important source of information about problems consumers experience with different financial products and services.

The Bureau, however, also considers a wide range of information and data when making policy decisions, information that includes but is not limited to consumer complaints. Indeed, we recognize that the process of debt collection may benefit consumers through keeping down the cost of credit. As a result, we are also considering the burdens that additional requirements may place on collectors. Policymaking at the Bureau is informed by a varied and comprehensive set of information. Debt collection complaint data is but one element of the many different types of information and input that the Bureau considers in its development of rules.

Specifically, in November 2013, the Bureau took the first step toward considering consumer protection rules for the debt collection market with the publication of an Advanced Notice of Proposed Rulemaking (ANPR). To identify subjects that proposed rules may address, the Bureau is reviewing the more than 23,000 public comments received in response to the ANPR to evaluate the nature and extent of consumer protection problems as well as the advantages and

⁵ See sections 1022(c)(1); 1022(c)(2) of the Dodd-Frank Act.

disadvantages of various solutions to those problems. In addition to these comments, Cornell University also submitted a report based on nearly 1,000 responses received on RegulationRoom.org, its website that provides the public with an interactive and intuitive way to participate in discussions about rulemaking proposals. As needed, the Bureau may meet with commenters seeking to clarify the information and views expressed in their comments as well as to understand differences in information and views in comments.

In addition to considering existing research and data on debt collection, the Bureau plans to conduct its own research as part of the rulemaking process. Drawing from a nationally representative sample of consumer credit records from one of the three nationwide credit reporting agencies, the Bureau plans to conduct a mail survey to learn about consumer experiences with debt and debt collection. The Bureau is in the process of developing and testing possible model forms.

In addition, pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act and since multiple agencies have enforcement responsibilities under the Fair Debt Collection Practices Act (FDCPA), the Bureau will consult with relevant federal agencies regarding any proposed regulations it may issue, including the Federal Trade Commission and the prudential regulators (Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, National Credit Union Administration) and Federal Communications Commission.⁶ The Bureau also expects to consult with relevant state law enforcement and regulatory agencies. Additionally, prior to issuing any notice of proposed rulemaking, the Bureau may convene a panel, pursuant to the Small Business Regulatory Enforcement Fairness Act (SBREFA), composed of the Bureau, Small Business Administration, and the Office of Management and Budget to get input from small businesses in the debt collection industry on the possible effects on them of any debt collection rule under consideration and ideas for possible lower-cost alternatives that accomplish the objectives of applicable statutes.

Throughout any major policymaking and rulewriting process, the Bureau will carefully consider its approach to rulemaking and continue to consider the various sources of information that enrich our understanding of relevant issues. Debt collection continues to garner some of the highest complaint numbers in our consumer response system and the volume of comments in response to the ANPR speaks to a high level of interest in regulations from consumers, industry, and other interested parties. The Bureau will continue to consider the appropriate approach to take in a rulemaking – including the various forms of informational inputs available to us – as we move through the steps in our process as outlined above.

⁶ See section 1022(b)(2) of the Dodd-Frank Act; sections 814(b) and (d) of the FDCPA.

**“The Semi-Annual Report of the Consumer Financial Protection Bureau”
House Committee on Financial Services Hearing
Questions For the Record
June 18, 2014**

Questions for the Record Submitted by Representative Spencer Bachus:

1. In your letter to me dated November 4, 2013, you stated that, when conducting a disparate impact analysis of an auto lender’s portfolio, you consider “analytical controls” to ensure that the groups of consumers you are comparing are similarly situated. You further stated that because this is a case-by-case determination, “you cannot identify each control that we apply in the analysis....” Now surely that are at least some analytical controls that apply to all of the various portfolios that the Bureau examines. Can you identify to me the analytical controls that the Bureau always applies to ensure the consumers you are comparing are similarly situated?

Response:

In general, the Consumer Financial Protection Bureau’s (Bureau) analysis of the buy rate controls for factors such as credit scores and debt-to-income ratios; characteristics of the collateral; and terms of the deal, such as the amount financed, down payments, the existence of a manufacturer discounted rate, and the term of the loan, as these factors are typically taken into account by lenders in arriving at the appropriate buy rate. The Bureau’s analysis of dealer markup focuses only on the added cost of the discretionary markup, which is the difference between the buy rate and the overall interest rate that the consumer receives. Because the previously-cited factors are already taken into account when determining the appropriate buy rate and are, therefore, considered in the overall interest rate the consumer receives, they are generally, absent additional evidence of legitimate business need in conjunction with their consideration in setting the markup, not appropriate to use as “controls” again for an analysis of only the discretionary dealer markup.

To date, the Bureau has not been provided with supporting documentation that would justify inclusion of additional controls when analyzing the discretionary dealer markup. Variables that lack supporting documentation as to their consideration in setting the dealer markup are generally not appropriate to use as “controls.”

Each supervisory examination or enforcement investigation is based upon the particular facts presented by the entity under review. Thus, in our analyses, we consider analytical controls that are appropriate to each particular entity. Any controls are dependent upon the particular lender’s policies, practices, and procedures. When lenders share the nature and results of their own analyses, each individual supervisory examination or enforcement investigation is open to hearing specific explanations for the decisions the lender has made to include particular analytical controls that reflect a legitimate business need. In the credit context, a creditor practice is discriminatory in effect if it has a disparate impact on a prohibited basis, unless the

creditor practice meets a legitimate business need that cannot reasonably be achieved as well by means that are less disparate in their impact.

Lenders can and should take creditworthiness and terms of the loan into account in the pricing of credit. The Bureau's focus is on the fair lending risk created by policies that allow dealers the discretion to mark up each consumer's buy rate after the lender has taken these factors into account in determining the risk-based buy rate for a particular loan, and then compensating dealers by giving them a share of that markup.

2. With regard to the consent order the Bureau entered into with Ally –

- a. What specific analytical controls did the Bureau apply to determine the pricing disparities that you set forth in your consent order with Ally?

Response:

As noted in the previous response, in general, the Consumer Financial Protection Bureau's (Bureau) analysis of the buy rate considers creditworthiness factors and controls for factors such as credit scores and debt-to-income ratios; characteristics of the collateral; and terms of the deal, such as the amount financed, down payments, the existence of a manufacturer discounted rate, and the term of the loan, as these factors are typically taken into account by lenders in arriving at the appropriate buy rate. The Bureau's focus is on the fair lending risk created by policies that allow dealers the discretion to mark up each consumer's buy rate after the lender has taken creditworthiness and other factors into account in determining the risk-based buy rate for a particular loan, and then compensating dealers by giving them a share of that markup. Because the previously-cited factors are already taken into account when determining the appropriate buy rate and are, therefore, considered in the overall interest rate the consumer receives, they are generally, absent additional evidence of legitimate business need in conjunction with their consideration in setting the markup, not appropriate to use as "controls" again for an analysis of only the discretionary dealer markup. In the specific case of Ally, the Bureau and the Department of Justice (DOJ) considered potential explanatory controls offered by Ally, and determined that Ally failed to provide adequate evidence that additional variables appropriately reflected legitimate business needs. Variables that lack supporting documentation as to their consideration in setting the dealer markup are generally not appropriate to use as "controls."

- b. What were the pricing differentials between these groups before the Bureau applied the analytical controls?

Response:

As noted in the previous response, because the Bureau did not accept the potential explanatory controls offered by Ally when analyzing the markup, the pricing differentials remained the same. The Bureau and the DOJ found that during the time period covered by the analyses, on average:

- African-American borrowers were charged approximately 29 basis points more in dealer markup than similarly-situated non-Hispanic whites for non-subservent retail installment contracts.
- Hispanic borrowers were charged approximately 20 basis points more in dealer markup than similarly-situated non-Hispanic whites for non-subservent retail installment contracts.
- Asian and Pacific Islander borrowers were charged approximately 22 basis points more in dealer markup than similarly-situated non-Hispanic whites for non-subservent retail installment contracts.

These disparities were statistically significant, and these differences were based on race or national origin and not based on creditworthiness or other objective criteria related to borrower risk.

3. As you know, the Department of Justice (DOJ) entered into consent orders with two auto dealers in 2007 to resolve allegations of disparate impact discrimination. As part of those consent orders, the dealers agreed to establish a standard dealer participation rate that it would include in all offers of credit unless a "good faith, competitive reason that is consistent with the Equal Credit Opportunity Act" is present in the transaction. If such a reason is present in the transaction – and DOJ identified 7 such reasons – the dealer could include a different amount of dealer participation in the credit offer provided it is properly documented. If pricing differentials between different groups of consumers in an auto lender's portfolio are attributable solely to these 7 reasons, has the auto lender acted in a manner that is consistent with the Equal Credit Opportunity Act?

Response:

As you note, the two Department of Justice (DOJ) cases from 2007 were negotiated in settlements involving dealers, whereas the Consumer Financial Protection Bureau's (Bureau) focus is on lenders. We remain concerned about indirect lending programs built around discretion and financial incentives that create fair lending risks. Lenders should be careful about assuming that individual dealer-level actions will fully address their own fair lending risks. When an auto lender's policies result in disparities on a prohibited basis within a lender's portfolio, a lender may be liable under the Equal Credit Opportunity Act (ECOA) if those policies are not supported by legitimate business need that cannot reasonably be achieved as well by means that are less disparate in their impact. The ECOA and its implementing regulation, Regulation B, prohibit discrimination in any aspect of a credit transaction on the basis of race, color, religion, national origin, sex, marital status, age, receipt of income from any public assistance program, or the exercise, in good faith, of a right under the Consumer Credit Protection Act.

Each supervisory examination or enforcement investigation is based upon the particular facts presented by the entity under review, including the strength of the entity's compliance management system, policies and procedures, monitoring and corrective action; training; and management involvement. Applying controls on discretionary dealer compensation may reduce

the fair lending risk associated with discretionary dealer markup, but absent lender specific information it is not possible to say whether a specific lender's policies or practices would pose a fair lending or ECOA violation risk.

Questions for the Record Submitted by Representative Andy Barr:

1. Director Cordray, when you appeared before this committee in January, I asked you about the March 2013 Indirect Auto Lending Bulletin. You asserted your belief that the bulletin was not new policy, but rather a "restatement of law." My impression, however, is that this is in fact a de facto rulemaking, done outside of the process required by the Administrative Procedure Act. While guidance is supposed to clarify an issue in simple terms, it's clear that the Auto Lending Bulletin has done the opposite.

Would you be open to revisiting the guidance? If not, would you at least be willing to consider following the informal rulemaking process, as outlined in the Administrative Procedure Act, as is required for any new policy?

Response:

As we have previously noted, the Equal Credit Opportunity Act (ECOA) and Regulation B, which was the result of notice and comment, make it illegal for a "creditor" to discriminate in any aspect of a credit transaction because of race, color, religion, national origin, sex, marital status, age, receipt of income from any public assistance program, or the exercise, in good faith, of a right under the Consumer Credit Protection Act.

The Administrative Procedure Act (APA) sets out the principles by which federal agencies engage in regulatory activity, and in applicable cases, allows for comments from affected parties and the general public concerning an agency's activity. The Consumer Financial Protection Bureau's (Bureau) March 2013 bulletin, *Indirect Auto Lending and Compliance with the Equal Credit Opportunity Act* (Auto Bulletin or Bulletin), principally reminded institutions of their legal responsibilities under existing law and provided suggestions for mitigating legal risks.¹ The Bulletin did not establish additional legal requirements for either the public or for the Bureau. Rather, the Bulletin provided examples of internal controls, program features, and compliance management systems that institutions might use to mitigate legal risk. While the Bureau regularly engages in extensive dialogue with stakeholders, our issuance of the Bulletin to provide clarity and guidance for institutions regarding the application of ECOA and Regulation B, and our attendant supervisory and enforcement approach, did not necessitate notice and comment under the APA.

¹ Consumer Financial Protection Bureau, CFPB Bulletin 2013-02, *Indirect Auto Lending and Compliance with the Equal Credit Opportunity Act* (Mar. 21, 2013), available at http://files.consumerfinance.gov/f/201303_cfpb_march_-Auto-Finance-Bulletin.pdf.

The Bureau made the Auto Bulletin available to the public via numerous means, including its website and public speeches. The Bureau is committed to following the requirements of the APA across all its rulemakings. Because the Auto Bulletin principally served to remind institutions of their legal responsibilities under existing law and provided suggestions for mitigating legal risks; did not establish additional legal requirements for either the public or for the Bureau; and was released in a manner consistent with the APA, the Bureau does not intend to revisit the Auto Bulletin. The Bureau will continue to engage with all market participants to allow the entire consumer financial marketplace to benefit from an open and ongoing dialogue.

2. Do you believe that the Equal Credit Opportunity Act can be used to either require or prohibit discretion in pricing among auto dealers?

Response:

The Equal Credit Opportunity Act (ECOA) does not require or prohibit discretionary markup and compensation policies; rather, in the credit context, a creditor practice is discriminatory in effect if it has a disparate impact on a prohibited basis, unless the creditor practice meets a legitimate business need that cannot reasonably be achieved as well by means that are less disparate in their impact. The ECOA and its implementing regulation, Regulation B, prohibit discrimination in any aspect of a credit transaction on the basis of race, color, religion, national origin, sex, marital status, age, receipt of income from any public assistance program, or the exercise, in good faith, of a right under the Consumer Credit Protection Act.

Questions for the Record Submitted by Representative Ed Royce:

1. During the hearing on June 18, 2014, I asked you a question about the potential for confusion when regulation is conducted through enforcement. Specifically, I used as an example the four enforcement orders against banks in connection with the marketing of debt protection products. As I mentioned at the hearing, because each of the enforcement actions impose different business reforms as remedial measures, banks are not certain what is required of them to safely sell these products, and many have stopped offering these products to consumers. Can you please clarify the agency's position on debt protection products so the industry can understand what is expected in connection with debt protection product? Does the CFPB have concerns about debt protection products themselves or just how these products are marketed?

Response:

In the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), Congress gave the Consumer Financial Protection Bureau (Bureau) a number of tools – including rulemaking and enforcement – to address and prevent consumer harm. In each action the Bureau takes, we endeavor to choose the appropriate tool to protect consumers and honest businesses in the marketplace. It would not be appropriate for us to prejudge the right tool for any particular threat to consumers or violation of the law. But, as a general matter, we have

taken enforcement actions where we believe violations of the law warranted that response. When it comes to specific enforcement actions, there are a number of factors that go into each filed action and negotiated resolution. In all cases, we aim to deter unlawful behavior and return money to harmed consumers.

As to debt protection products in particular, our actions to date have focused on the marketing and sales practices related to add-on products like those that offer consumers debt protection. We believe it is important that consumers receive adequate and accurate information about the cost and features of the products so they can make informed decisions about these products. Our matters to date have not taken a position whether these products themselves violate the law. The Dodd-Frank Act prohibits unfair, deceptive, or abusive acts or practices and authorized the Bureau to take action to prevent covered persons or service providers from committing or engaging in such acts or practices. We will continue to evaluate debt protection and other consumer financial products within our jurisdiction to protect consumers using the laws Congress has charged us with enforcing.

Questions for the Record Submitted by Representative Robert Pittenger:

1. Although technology has made tremendous changes in the financial services industry—regulatory definitions have not kept pace. For example, there is no uniform definition of the terms “lead generator” or “mortgage application”. For non- bank companies that are licensed as mortgage brokers in multiple states under the SAFE Act who encourage consumer comparison shopping, but do not collect traditional information provided by mortgage brokers, this creates a serious compliance problem. As part of the CFPB’s commitment to streamlining, clarifying and updating details of the mortgage lending process, can the Bureau develop uniform definitions that reflect the new mortgage marketplace?

Response:

The Consumer Financial Protection Bureau (Bureau) considers consistency among defined terms and other burden-reduction opportunities in each of its rulemakings, consistent with the purposes of the authorizing statutes. However, each statute has different purposes, and the statutes themselves may define and use the same or similar terms differently in light of the various purposes of the statutes.

For the various mortgage-related statutes where the Bureau has rulemaking authority, it must exercise its authority according to the requirements and purposes of each authorizing statute. The Secure and Fair Enforcement for Mortgage Licensing (SAFE) Act is a consumer protection statute that, in part, seeks to ensure the accountability of individuals who are “loan originators” and to establish a means by which those individuals are encouraged to act in the interests of the consumer. The Truth in Lending Act (TILA) defines the similar term “mortgage originator” differently, and arguably more broadly, when it establishes requirements related to the compensation and responsibilities of natural persons and organizations that meet the TILA

definition. The Bureau has implemented the SAFE Act and TILA provisions related to loan and mortgage originators to reflect these differences in statutory definitions.

The Bureau also may share authority in some of the mortgage-related areas with other federal and state agencies. For example, the SAFE Act requires that certain individuals who interact with consumers in mortgage financing transactions be licensed, but does not address licensing of nonbank institutions involved in mortgage financing. In addition, statutes that apply to mortgage-related activities may also apply to other consumer credit transactions and use the same terminology for mortgage and nonmortgage activities, such as in the TILA. In such cases, when the Bureau implements or revises its regulations, we consider – as we must – how the definitions affect the coverage of the nonmortgage business requirements, as well as the mortgage-related activities.

The Bureau has already indicated its support of using industry standards, including uniform definitions, when practicable and appropriate to develop and establish compliance requirements for mortgage-related activities. For example, in materials released publicly in connection with the Small Business Panel conducted for the Bureau's Home Mortgage Disclosure Act (HMDA) rulemaking, the Bureau announced it was considering how definitions in the Mortgage Industry Standards Maintenance Organization (MISMO) data standards could be applied to improve uniformity with industry practices in revisions that the Bureau would be proposing for Regulation C (implementing HMDA). In addition, on its website the Bureau alerts the public that the MISMO data standards already are being leveraged to support implementation of the Bureau's Loan Estimate and Closing Disclosure forms in Regulation X (implementing the Real Estate Settlement Procedures Act) and Regulation Z (implementing TILA).

The Bureau is always prepared to streamline and render more consistent its regulatory definitions to the extent these constraints allow. The Bureau encourages commenters on its proposals to bring to its attention any specific or general opportunities to improve the definitions in its rules, including by considering widely used industry practices and standards that could further the purposes of the particular statute while reducing compliance burdens.

